

ZB# 95-49

Richard Coloni

37-1-21

Prelim.

#95-49 - Colono, Richard
Use Variance

October 23, 1995

Notice to Sentinel 4/2/95

Short Form EAF

~~Deed to be Notified~~

Deed 4

~~Interpretation~~

and for Use

NC Zone

Motion to

schedule P.H.

Fees - Land &

~~List and~~ Public Hearing

Nov. 27, 1995.

Use & Area

Variance

Approved

Refund - \$340.00

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

1511

Nov 7 1995

Received of Dor's Associates, Inc. \$ 150.⁰⁰

One Hundred fifty 00/100 DOLLARS

For ZBA - 49

DISTRIBUTION

FUND	CODE	AMOUNT
CR # 1054		150. ⁰⁰

By Dorothy N. Hansen

Town Clerk

Title

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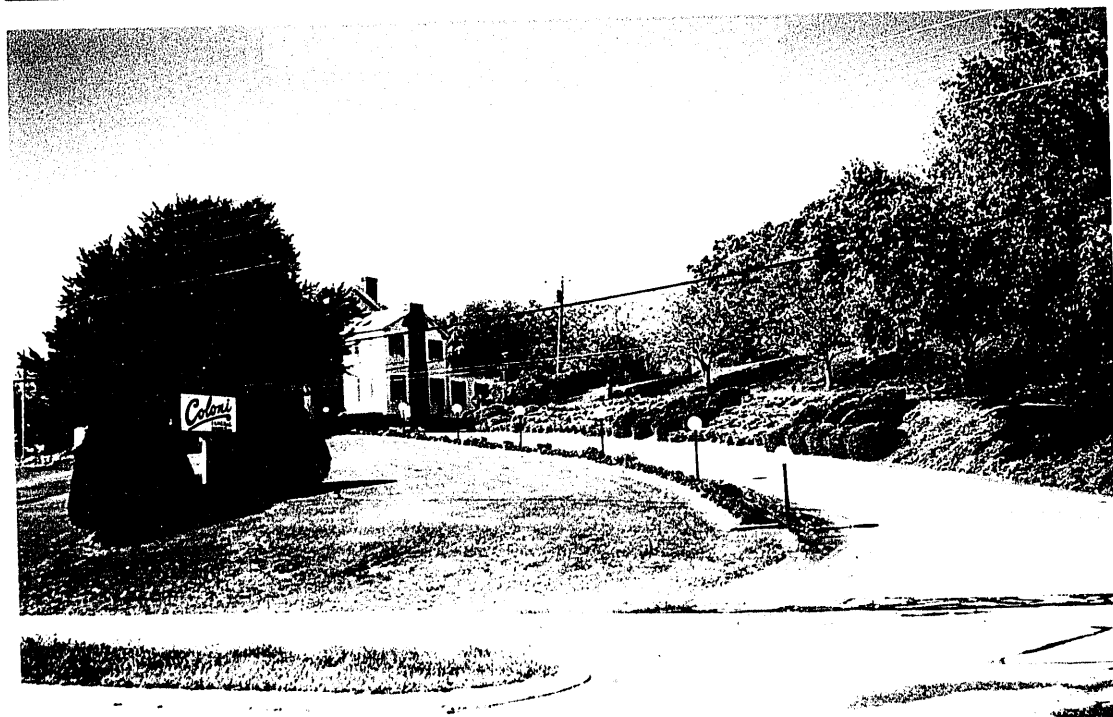


CR #	DATE	AMOUNT
CR # 1054		150.00

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By Dorothy N. Hansen
Town Clerk
 Title





vac



Date _____

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO

CHARGE: ZBA BUDGET

CLAIMED.

ALLOWED

DATE _____

REFUND OF ESCROW OVERPAYMENT - # 92-17.

\$ 340.00

APPROVED:

Zoning Board of Appeals

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Coloni, Richard-Dou Assoc. FILE # 95-49RESIDENTIAL: \$ 50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA ☐USE ☒ orAPPLICATION FOR VARIANCE FEE Interpretation. \$ 150.00 paid
* * * * * ck # 1054 11/1/95ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00 paid
Paid ck.
1055
11/1/95

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE . 10/23/95 - 11/1/95 . . . \$ 49.50
2ND PRELIM. MEETING - PER PAGE . 11/27/95 - 11/27/95 . . . \$ 40.50
3RD PRELIM. MEETING - PER PAGE \$ _____
PUBLIC HEARING - PER PAGE \$ _____
PUBLIC HEARING (CONT'D) PER PAGE \$ _____
TOTAL \$ 90.00

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: . 10/23/95 \$ 35.00
2ND PRELIM. . . . 11/27/95 \$ 35.00
3RD PRELIM. \$ _____
PUBLIC HEARING \$ _____
PUBLIC HEARING \$ _____
TOTAL \$ 70.00

MISC. CHARGES:

. \$ _____
TOTAL \$ 160.00LESS ESCROW DEPOSIT . . . \$ 500.00
(ADDL. CHARGES DUE) . . . \$ _____
REFUND DUE TO APPLICANT . \$ 340.00

Refund due.

(ZBA DISK#7-012192.FEE)

DORI ASSOCIATES, INC.
P.O. BOX 4097
NEW WINDSOR, NY 12553

FLEET BANK
VAILS GATE 27522
VAILS GATE, NY 12584
28-1/213

1054

PAY TO THE
ORDER OF

Town of New Windsor

11/1/95
\$ *150.*

DOLLARS

MEMO

ZBA-49

RBC

⑈001054⑈ ⑆021300019⑆ 522 1001127⑈

DORI ASSOCIATES, INC.
P.O. BOX 4097
NEW WINDSOR, NY 12553

FLEET BANK
VAILS GATE 27522
VAILS GATE, NY 12584
28-1/213

1055

PAY TO THE
ORDER OF

Town of New Windsor

11/1/95
\$ *500.00*

DOLLARS

MEMO

ZBA-95-49

RBC

⑈001055⑈ ⑆021300019⑆ 522 1001127⑈

-----x
In the Matter of the Application of

DORI ASSOCIATES

DECISION GRANTING
USE/AREA VARIANCES#95-49.

-----x

WHEREAS, DORI ASSOCIATES, INC., a corporation having its principal office on the west side of Route 9W, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a use variance and for an 8 ft. rear yard and 35 ft. street frontage variance to allow existing single-family residence in an NC zone after subdividing property; and

WHEREAS, a public hearing was held on the 27th day of November, 1995 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by Daniel S. Lucia, Esq., Richard A. Lawson, real estate appraiser and Richard Coloni; and

WHEREAS, there were no spectator appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The subject property contains a funeral home and one residence. The applicant seeks this variance to allow the residence to be on a separate parcel.

(b) A 35 ft. street frontage and 8 ft. rear yard variance is required because the only street frontage on the proposed lot will be that sufficient for an independent driveway.

(c) The 8 ft. rear yard area variance is required in order to permit the existing deck and pool.

(d) The deck and pool are similar to others in the neighborhood and the Town and are appropriate for the lot.

(e) Extensive analysis by the real estate appraiser showed that the property is, because of its location and topography, locational obsolescence, negatives of slope, lack of

signage and distance from a main highway, as well as its proposed size, make it unsuitable for any use which is currently permitted in the NC zone.

(f) The property is unique in the neighborhood except for the adjacent property which is itself a residential use such as is proposed for this property.

(g) The surrounding neighborhood is of mixed commercial and residential properties.

(h) The house was erected in 1988 as an accessory to the funeral home and has been continuously used as such ever since its construction.

(i) The reduced street frontage is necessary in order to permit the construction of a driveway to service this proposed use which could be used in conjunction with the driveway serving the adjacent residence and minimize the ingress and egress on and off NYS Route 9W.

(j) These variances if granted would result in no change in the appearance of the neighborhood.

(k) No increase in traffic would be occasioned as a result of the granting of the variances since all of the uses of the property are currently existing.

(l) The variances if granted would not interfere with any ground or surface water or any sewer easement.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The applicant has proven to the Board's satisfaction that it cannot realize a reasonable return as demonstrated by competent financial evidence for each and every use permitted in the NC zone.

2. Any hardship relating to the property in question would appear to be unique in that the property is unlike any other properties in the neighborhood or district.

3. A finding is made by the Board that the requested use variance would not result in an alteration of the essential character of the neighborhood or create a detriment to nearby properties.

4. It appears that the hardship alleged by the applicant has not been self-created in that the applicant constructed the residence as an accessory use to the funeral home operation and therefore did not require any variances at the time it was constructed.

5. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

6. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

7. It is the finding of this Board that the benefit to the applicant, if the requested area variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

8. It is the further finding of this Board that the requested area variances are the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

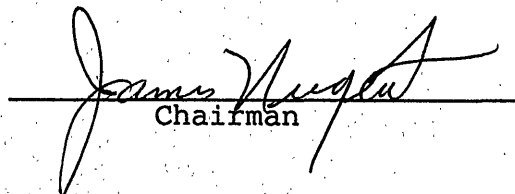
9. The interests of justice will be served by allowing the granting of the requested area variance.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor grant a use variance to allow existing single-family residence in an NC zone after subdividing of the property located on Route 9W, plus an 8 ft. rear yard and 35 ft. street frontage variance, to applicant as proposed herein based on plans submitted to and filed with the Building Inspector.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: February 5, 1996.


Chairman

(ZBA DISK#13-012996.DA)

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 95-24

DATE: 14 SEPT 95

APPLICANT: RICHARD COLONI

ROUTE 9W

NEW WINDSOR N.Y. 12553

#95-49.

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 18 AUG 1995

FOR (SUBDIVISION - ~~SITE PLAN~~)

LOCATED AT NORTHWEST SIDE RT 9W APPROX. 300 FT.

SOUTH BLMG GRV TPK.

ZONE

NC

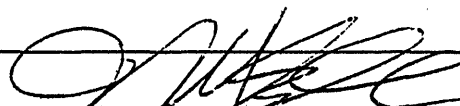
DESCRIPTION OF EXISTING SITE: SEC: 37 BLOCK: 1 LOT: 21

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

SINGLE FAMILY RESIDENTIAL USE NOT PERMITTED -

USE VARIANCE REQUIRED

Also - 8 ft. rear yd. &
35 ft. street
montage


MARK JEPSALL, Jr.
MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE MB 10-23-95 USE

MIN. LOT AREA

MIN. LOT WIDTH

REQ'D FRONT YD

REQ'D SIDE YD.

REQ'D TOTAL SIDE YD.

REQ'D REAR YD.

REQ'D FRONTAGE

MAX. BLDG. HT.

FLOOR AREA RATIO

MIN. LIVABLE AREA

DEV. COVERAGE

O/S PARKING SPACES

ND
USE
NOT
PERMITTED
IN
ZONE
APPLICABLE
VALUES

%

%

%

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

COLONI SUBDIVISION (95-24) RT. 9W

Mr. Richard Barger and Mr. Richard Coloni appeared before the board for this proposal.

MR. PETRO: What do you want to do?

MR. BARGER: Mr. Coloni wants to subdivide a parcel of land off of his property over on 9W. The only problem is it's in an NC zone which doesn't allow for subdivision.

MR. PETRO: Is that this map?

MR. BARGER: Yes.

MR. PETRO: Can you put it up on the board, maybe you can point at what you're doing?

MR. BARGER: Sure.

MR. BARGER: If you are familiar with it, this is Route 9W, this is Coloni Funeral Home. Richie lives up here and right now it's part of the funeral home but what he wants to do is subdivide this parcel off of the funeral home for legal purposes, if he ever sells or mortgages, he doesn't encumber the whole property but it's in a zone that doesn't allow subdivisions so we're going to have to go for a variance

MR. BABCOCK: Doesn't allow a single family home.

MR. PETRO: Will we need a special use permit to have a single family home in an NC zone?

MR. BABCOCK: Yes, it's going to need a zoning variance.

MR. PETRO: Once it has the zoning variance, we don't need the special use permit any longer.

MR. BABCOCK: That is correct, then you just need a subdivision.

MR. PETRO: Right now, this is accessed by a driveway

behind the funeral home?

MR. BARGER: Through the funeral home off 9W and through the funeral home.

MR. PETRO: Ones it's subdivided, we have to correct that problem.

MR. VAN LEEUWEN: He doesn't have to make it direct access as long as he has access.

MR. BARGER: We're leaving access to 9W and he will maintain a right-of-way for this but he build his own right-of-way.

MR. PETRO: That right-of-way the way you have it drawn on there it looks like the slope is steep.

MR. BARGER: It's steep.

MR. LANDER: It's only for road frontage, Mr. Chairman, that would be the only thing that would be for.

MR. PETRO: Yes, unless the funeral home is sold and he needs to have a driveway.

MR. EDSALL: Jim, one of the items we talked about at length at the workshop was that they had hoped at this particular time to continue the access through the site plan but then reserve the ability to develop a driveway up this strip. So we worked with Rich's son, Rich, and come up with some ideas that they can incorporate into the deed which will allow continued access through the site plan through the developed accessways and at such time that the driveway would be constructed that right to go through the funeral home property would cease unless there's a renegotiation. So we have worked out something that gives them some flexibility as long as the board doesn't object to that type of approach.

MR. PETRO: Not objecting to the approach, how can you build something if it is feasible to build it there?

MR. EDSALL: The indication we had for the slopes through here it could be developed at around less than

15 percent at the maximum 15 percent is the maximum recommended the board has and that was one of the first questions we asked can you do it, would it exceed the 15 and they have indicated based on the survey they can.

MR. DUBALDI: What about the second home, how does that play?

MR. BARGER: No, second home is owned by his son on a separate parcel.

MR. VAN LEEUWEN: Always has been on a separate piece of property.

MR. LANDER: Which number is that?

MR. COLONI: 31.

MR. EDSALL: Jim, just another item we suggested for the deeds because they are creating this strip parallel to the property line and Rich, Jr.'s property has an ability to be an access in the same location, we suggested that they give cross-grading easements so that they could develop all the grading in one spot and develop driveways parallel to each other.

MR. DUBALDI: I don't understand where the lot line is between, I'll use references 32 and 31?

MR. BARGER: Right here, this dark line.

MR. DUBALDI: I mean on the map here?

MR. BARGER: This line right here, stone wall.

MR. DUBALDI: There should be a line going down.

MR. BARGER: This line here is this heavy line right here.

MR. DUBALDI: It's unclear on the map.

MR. PETRO: Your son's house, Richie, Jr.'s house has access through Coloni Funeral Home, I see the driveway

now is going to be going through not only the existing parcel but it's going to be going through the second parcel that we'd be looking to create so he'd need an easement for that.

MR. COLONI: But we're also subdividing the front of that.

MR. BARGER: We're not subdividing, this piece is going to be deeded to Rich to create one lot there so Rich is going to own the whole thing.

MR. COLONI: He will have access in front of his house.

MR. LANDER: How do we get access to, let's just hypothetically say lot 31 is Rich's house, your son, so now unless we, unless they are both, you can't both use 25 feet here?

MR. EDSALL: 25 on the other side.

MR. BABCOCK: Ron, just so you know, it's lot 3.1 and the one in front of it 3.2, they are consolidating, making one lot and the junior is going to own both of those lots is going to be one so he will have road frontage and access to 9W.

MR. LANDER: Because at that point, he didn't have any road frontage.

MR. EDSALL: We suggested.

MR. BABCOCK: The other thing the board should keep in mind in the NC zone road frontage is not a requirement, there's no requirement for road frontage.

MR. LANDER: I know but we have a home here.

MR. BABCOCK: I'm just telling you there's no requirement though.

MR. PETRO: Lot 3.1 and 3.2 are two separate lots?

MR. BABCOCK: Correct.

MR. PETRO: Coming in at another separate time other than this application.

MR. BARGER: No, just by deed because they are two separate parcels and Dori can deed it to Richie Coloni and he owns both parcels.

MR. BABCOCK: They did come to the workshop.

MR. KRIEGER: When you deed it over, are you going to indicate in the deed that it is intended thereafter to be one parcel?

MR. EDSALL: We asked them as part of this application as a followup to combine the two parcels to a single parcel.

MR. KRIEGER: You have to indicate in the deed that is the intent to do it, if you just have two separate descriptions in one deed.

MR. EDSALL: One description.

MR. KRIEGER: Then we get the question that comes up.

MR. EDSALL: Asked them to have one total description and that is when we suggested that they create a 25 foot easement on through the south side of 3.1 and 3.2 that they could use as a shared grading area but then run two separate driveways.

MR. PETRO: Dick, let me ask you this, the existing house as it stands now, how is it serviced by water and sewer?

MR. BARGER: Central water, all this is town water, sewer and so is Rich.

MR. PETRO: My point would be then is the lines that go to that house, what property would they cross? Do we need any easements?

MR. BARGER: That is one question I have to find out, I don't know where the lines are, if they do in fact cross, we'd have to give easements, I don't know where

August 23, 1995

12

they are going.

MR. PETRO: Should be written easements, I have had that problem before myself. Again, you might sell this to whoever and then he says well, I don't want that water line on my property and then a house has a problem.

MR. BARGER: That is one thing we have to do, show how this--

MR. COLONI: Water line comes from Blooming Grove Turnpike.

MR. PETRO: Then that is not a problem. What about the sewer?

MR. STENT: Just in the house.

MR COLONI: No, water line comes in the middle. Richie, my son, splits to my house and goes to my son's house.

MR. STENT: From 9W up the hill to the parlor?

MR. COLONI: Yes, sewer line comes down this driveway.

MR. BARGER: So I'll have to locate those but that is--

MR. PETRO: I think that is more important for the, for you than anyone one else.

MR. VAN LEEUWEN: I make a motion to approve.

MR. DUBALDI: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board approve the Dori Associates minor subdivision on Route 9W. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. VAN LEEUWEN	NO
MR. STENT	NO

MR. DUBALDI	NO
MR. LANDER	NO
MR. PETRO	NO

MR. PETRO: You're being sent to the Zoning Board. Once you receive the variances required by this board from the Zoning Board, you'll appear here again and we'll take it from that point.

MR. BARGER: Do you send a letter to the board recommending?

MR. PETRO: They'll review these minutes and they'll have our standing and what's transpired at tonight's meeting. It does take a couple weeks.

MR. BARGER: That's no problem, take us a couple weeks.

MR. KRIEGER: They'll also have obtained a report from both the building inspector and myself.

MR. PETRO: I would suggest also before you come back to this board to locate the water, sewer and overhead and power lines.

MR. BABCOCK: Also the variances on the map once you receive them.

MR. BARGER: Okay.

MR. BABCOCK: Once you receive the variances.

MR. BARGER: I put down what we're going for.

MR. BABCOCK: Say you received this on such and such a date and what you received.

MR. KRIEGER: Mike, is he going to need both area and use variances?

MR. BABCOCK: Yes.

Date 12/4/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Symamore Dr. DR.

New Windsor, NY 12553

DATE		CLAIMED	ALLOWED
11/27/95	Zoning Board Meeting	75.00	
	Misc. - 1		
	HRC - 6		
	Rosenbaum - 6		
	Taromanides - 3		
	Roberts - 4		
	Dori Associates - 9 \$40.50		
	Olson - 10		
	Schlesinger - 3		
	Johnson - 3		
	<u>45 pp</u>	<u>202.50</u>	
		277.50	

DORI ASSOCIATES

MR. NUGENT: Request for use variance to allow existing single-family residence (Coloni) in an NC zone after subdividing property located on Route 9W. *plus 8 ft rear yd. & 35 ft. street*

Daniel S. Lucia, Esq. appeared before the board for *frontage*, this proposal.

MR. LUCIA: Good evening, gentlemen, Pat and Fran, I'll introduce everybody in a moment. I'm Dan Lucia representing Dori Associates and I have with me tonight Richie Coloni, who is the younger Coloni involved in the funeral home operation, Richard Lawson, who is a real estate appraiser and will be offering some evidence with regard to the testimony of the use and area variances and Richard will distribute a little summary and he will be speaking to that in more detail in just a moment and we also have Richard Barger who is the surveyor on the property and he's available to answer any specific questions that may be raised in that connection. I think from the preliminary, you should have the site plan that we distributed in the file. In addition, let me give you a couple of other things to look at. I have some copies of the zoning map, this property has been outlined in yellow and I also have the tax map again with specific properties indicated. You may recall at the Preliminary Hearing, I got off on a long tangent about the location of the zoning district line and whether we were here for interpretation or we need to be here at all, please disregard all that, that was my error in reading the zoning map. Pat straightened me out. So we're here for a use variance in order to subdivide this property. It is a 5.1 acre parcel of property. The applicant seeks to subdivide it into two separate parcels, one 4.3 acre parcel which will one contain the existing funeral home and in the northwestern corner, approximately 3/4 acre parcel that will contain the existing residence. The residence was constructed as an accessory to the funeral home operation and therefore, did not require any variances at the time it was built. It did not require any area variances either because it met the NC requirements as it sits. Now that we're seeking to subdivide it, we have agreed

at the preliminary to impact the requirements from the R-4 zone and that gives rise in addition to the use variance because we're having a residence in an NC zone, two area variances are needed, one for street frontage, 60 feet is required, we're providing 25 on a flag, therefore we need the 35 foot street frontage variance, rear yard 40 feet is required, we're providing 32, so we need an eight foot variance on that. The structure itself conforms to the rear yard, it's just the extension of the deck around the pool and I guess it's an enclosed room in the back that actually encroaches on the required rear yard. I'm going to turn it over to Mr. Lawson, who has done an analysis on the tests for the use variance and let him speak to the issue of unnecessary hardship.

MR. LAWSON: Thank you. Just to refresh you, I brought some pictures which I enlarged. The subject which we're discussing is the house here, it's also in the report but in a smaller version. The incline which we tried to show the steep slope running up to the subject we tried to depict down here from the road and then halfway up from the site itself, we showed entrance which is of considerable importance in the analysis which Mr. Lucia has presented to you. And then we took a picture of the properties to the rear of the subject, we stood at the property line and just took pictures of the other houses in the R-4 zone which abuts the rear. In order to determine the economic feasibility of the site on the usages under the NC zoning, I have analyzed for you this report on the second page, the four approaches which we attempted to take, one is theory of locational obsolescence, I'll go into that in just a minute. We analyzed the Town of New Windsor assessor value analysis in which the assessor broke the parcel down into primary, secondary and at the rear site residual for the acreage which would determine and also the other acreage to the left as you look at the site we incorporated the theory of excess land which we will discuss further. And we also discussed the zoning value contradiction where most of the NC zoning extends back in the area 200 feet, this goes back the complete length of the property which is over 400. And the reason for that probability and then we went into the highest and best use analysis which is always a

determining factor in analyzing a property as to what's the best use for it. So, if I can just have you turn the page, we can go into the determinations of the highest and best use for the property. This is less than an acre as you know and it sits back at the very top of the slope. We looked at possible uses what are the physical possible uses concerning the sites, size, configuration, et cetera. We looked at the legal permissible uses as you know under the NC use, there's various uses which you could incorporate for the property. We looked at the financially feasible use which would be possibly legal committed will produce any net return to the site and then we went into the highest and best use which would be the highest net return for that portion. And being as it's at the tall top of the site, with no visibility to the 9W frontage, and with its slope, we determined that the highest and best use for the property would be residential. We then went over to the next page which is the summary of facts and conclusions which you already know so I think we can probably skip that. The land area is 33,119, we showed you the same pictures on the next page that I have blown up here for the demonstration, again attempting to show you the R-4 zoning to the rear of the site, the subject slope and then we took a picture of the mid site which is what the site overlooks, the subject site which is the funeral home. And then we reduced the topo and survey which Mr. Barger did for your analysis, showing that at the road frontage we have a hundred feet above sea level and at the rear of the site, it goes up at the property line at the rear of the house the 158 feet which is steep. We then went into the theory of locational obsolescence and basically what locational obsolescence is is that it's an explanation of the diminished utility which a property experiences from external forces outside the property line, the property lines being less than the acre of the subject home. And in this case, it's the slope, the lack of frontage, the lack of signage and because of this, the subject site suffers which again indicates that its best use is the R-4 which is the same as to the rear of the site. I may also point out that subject site being here, to the immediate right, there's residential usage and if we go to the end of the total site which we're not discussing right now but

there's residential usage over here so it is not like it's an oasis of residential uses. As we proceed through this abbreviated report, there's the bulk table codes we go into the New Windsor assessor value analysis where the front portions of 01 primary, the middle section is 02 secondary and the rear, the rear, the subject area is 04 residual. The values of the rear property at 33 percent, 33. percent of the front usable portion again showing the diminish in utility. The next sheet is just a blowup of the assessor's card. The zoning boundary contradiction was interesting because as you know, most of the NC zoning does go back 200 feet. As this business use NC zone and the subject the total property was in existence prior to the zoning we can only deduct that when the zoning was drawn that it went 200 feet like other areas that were done along 9W, they just made it go along with the property line which was the full 400 plus in order to facilitate the use of the funeral home. For that reasons, we don't feel that NC would be usable at the rear. The next page shows the location of the site on 9W and then at the bottom of that, it shows houses to the rear of the site which this would become homogeneous with. Thank you.

MR. LUCIA: Just a couple questions to summarize. Mr. Lawson, I think we reviewed before the table of use bulk regulations for the NC zone, based on your analysis, is it true that this property cannot yield a reasonable return if used for any permitted use in the C zone?

MR. LAWSON: No, it suffers from the locational obsolescence from the negative of the slope, lack of signage, distance from 9W.

MR. LUCIA: And that would apply to any NC zone?

MR. LAWSON: Yes, we reviewed them all.

MR. LUCIA: And is the hardship for this property unique, is this the only property in the neighborhood that bears this or are there a couple neighboring properties that may be similarly situated?

MR. LAWSON: The property to the immediate right as you look at the subject that we're discussing, is residential property at the far end of the total site is residential.

MR. LUCIA: But then if we come a little bit further south then the zoning boundary jogs back in towards 9W to approximately 200 feet.

MR. LAWSON: 200 seems to be the norm but not only this area but other areas that I studied.

MR. LUCIA: And across the street where the motel is that is again approximately 200 feet?

MR. LAWSON: Approximately 200, yes.

MR. LUCIA: Do you feel that this variance would alter the essential character of the neighborhood?

MR. LAWSON: No, the neighborhood up there is basically R-4.

MR. LUCIA: And is it your impression that the hardship was not self-created by the applicant?

MR. LAWSON: The house is there, it's existing.

MR. LUCIA: I believe it pre-existed zoning?

MR. LAWSON: Yes, it did.

MR. LUCIA: I think that concludes our presentation on the use variance part of this application but moving now to the--any question specifically on the use variance before I go on to the area variance?

MR. NUGENT: I guess not.

MR. LUCIA: Okay, on the area variance as mentioned since we're importing the R-4 regulations there are two area variances required.

MR. LANGANKE: Excuse me, if I can interrupt, when was the house built?

MR. LUCIA: I believe in 1988, is that correct?

MR. COLONI: Approximately.

MR. TORLEY: So, it is not pre-existing?

MR. LUCIA: The residence is not pre-existing. The use of the property as a funeral home does pre-exist and the residence was built incidental to that use, that is the reason no one was here before for the residential use, it's only because we're seeking to subdivide it that we now, because of that change in use, have to come in for the use variance. With regard to the street frontage variance as you can see we're providing 25 foot flag and we need 60 feet of street frontage, is there an unusual slope in that area, Mr. Lawson?

MR. LAWSON: Yes, it's severe.

MR. LUCIA: And the corner of this property also intersects I guess the entrance ramp, the southbound entrance ramp to 9W from Blooming Grove Turnpike so if we were to widen out that frontage to 60 feet we'd create a real problem.

MR. LAWSON: I tried to pick that up with this photograph here but that is indicative of it and you can see better on the actual survey that it overlaps.

MR. LUCIA: I believe I also mentioned during the preliminary the property immediately adjacent on the north side of this property is also owned by the Coloni family, actually Richard Coloni and his wife, that is now two parcels of property which they are going to combine into a single parcel and when they went before the planning board because of the steep grade, the planning board suggested and my client agreed that they'd have cross grading easements if they ever did need to put a driveway in there so apparently, it could be zigzagged near that boundary line so as to avoid as many problems as possible. They do not now intend to access the property over that driveway. It's there merely to create some frontage. The actual access will remain as existing now up to the main driveway, funeral

home back around through the parking lot and up the respective driveways. But if the need should arise, there is that possibility and my client has agreed to the ameliorating factor on the cross easement to reduce as much as possible at that intersection, the access ramp to 9W, existing driveway and steep slope. With regard to the rear yard, we could eliminate the need for the variance by shortening the deck and the enclosed room. The house itself is not violative, it's a fairly diminuous variance, it's eight feet by narrowing the deck to that extent and the enclosed room, I don't see where it would gain any additional real privacy for the neighbors so that is not really a viable alternative. It would create an odd sized deck with really little access to the pool and the room would become basically useless. I think it is negligible, the eight feet is just not that important in that area. The variance for the street frontage is substantial. The one for the rear yard is not. But as I say the, substantial front yard variance we have agreed to ameliorating conditions suggested by the planning board and it probably makes the best of the situation that exists there because of the existing driveway and the access ramps. There should be no adverse affect or impact on physical or environmental conditions in the neighborhood or district. This is existing construction and the only new event is the subdivision. Difficulty has not been self-created. We handled that under use variance. So for all these reasons, the applicant respectfully submits that they are entitled to the granting of a use variance and to the two requested area variances and that they are the minimum variances which can address the situation in which the applicant finds himself. Thank you.

MR. KRIEGER: If the variances were granted, particularly the area variances, it won't result in any increased traffic on Route 9W cause the traffic is already there from its present use.

MR. LUCIA: All the uses are existing and currently in use.

MR. KRIEGER: You realize that if an area variance is granted by the zoning board, it does not absolve the

applicant of any necessity that may exist by law to get curb cut permission from the DOT?

MR. LUCIA: I think the applicant is aware of that but thank you for mentioning it.

MR. KRIEGER: An installation of a proposed driveway there will not interfere with any ground or surface water, sewer easement?

MR. LUCIA: I think we need to locate the sewer lines for the planning board.

MR. BARGER: We have them on the map.

MR. LUCIA: They are now on the map and it does not interfere.

MR. KRIEGER: That is all I have.

MS. BARNHART: For the record, I have an affidavit of service by mail stating that I mailed out 46 addressed envelopes to all the people on the adjacent residents on the list that received from the assessor that was done on November 15. I don't know in anybody's here.

MR. NUGENT: Is there anyone in the audience that is involved in this concern? Let the record show that there was no one in the audience. Are all your concerns met?

MR. KRIEGER: Yes.

MR. NUGENT: I think he did a very nice job.

MR. LUCIA: It's interesting being on the other side of the table but I enjoy it. Thank you.

MR. TORLEY: I move we grant the requested use and area variances for the Dori Associates.

MR. KANE: Second the motion.

ROLL CALL

November 27, 1995

29

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. REIS	AYE
MR. NUGENT	AYE

Pls. publish immediately. Send bill to: Dori Assocs. - at below address.

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 95-49

Request of DORI ASSOCIATES, INC.

for a VARIANCE of the Zoning Local Law to permit:
a proposed subdivision of the applicant's property which will
result in one lot improved by a single family home, a residential
use not permitted in the NC zone, and in addition, to permit such
single family home on a proposed lot containing insufficient rear
yard and insufficient street frontage.
being a VARIANCE of Section 48-9, Table of Use/Bulk Regs., NC zone,
Col. A, and of Section 48-12, Table of Use/Bulk Regs., R-4 zone,

Col. A 10

for property situated as follows:

113 U S Hwy 9W, New Windsor, NY, which is located on the west side
of Route 9W, immediately to the south of the southbound acceleration
lane providing access to Route 9W South from Blooming Grove Turnpike

known as tax lot Section 37 Block 1 Lot 21.

SAID HEARING will take place on the 27th day of November,
19 95, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

James E. Nugent, Jr.

Chairman

By: Patricia A. Barnhart, Secy.

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

95-49
Date: 11/1/95

I. Applicant Information:

- (a) DORI ASSOCIATES, INC., P.O. Box 4097, New Windsor, NY 12553
(Name, address and phone of Applicant) (Owner)
(b) n/a (914) 561-0238
(Name, address and phone of purchaser or lessee)
(c) DANIEL S. LUCIA, ESQ., 343 Temple Hill Road, New Windsor, NY 12553
(Name, address and phone of attorney) (914) 561-7700
(d) n/a
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- (☒) Use Variance (☐) Sign Variance
(☒) Area Variance (☐) Interpretation

III. Property Information:

- (a) NC 113 U S Hwy 9 W, New Windsor, NY 37-1-21 5.10 Acres
(Zone) (Address) (S B L) (Lot size)
(b) What other zones lie within 500 ft.? R-4 and R-5
(c) Is a pending sale or lease subject to ZBA approval of this application? no
(d) When was property purchased by present owner? 6/1/61
(e) Has property been subdivided previously? no
(f) Has property been subject of variance previously? no
If so, when? n/a
(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? no
(h) Is there any outside storage at the property now or is any proposed? Describe in detail: no

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A, to allow: NC zone
(Describe proposal) Please see attached Schedule A.

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application. Please see attached Schedule A.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk R-4 zone Regs., Col. A 10.

Note: Use not permitted in NC zone; hence there are no applicable bulk regulations on table for NC zone. The following bulk regulations are imported from table for R-4 Proposed or Variance

<u>Requirements</u>	<u>zone. Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. <u>40'</u>	<u>32'</u>	<u>8'</u>
Reqd. Street Frontage* <u>60'</u>	<u>25'</u>	<u>35'</u>
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created.

Describe why you believe the ZBA should grant your application for an area variance:

Please see attached Schedule A.

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: n/a

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)
Please see attached Schedule A.

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- x Copy of tax map showing adjacent properties.
- n/a Copy of contract of sale, lease or franchise agreement.
- x* Copy of deed and title policy.
- x Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- n/a Copy(ies) of sign(s) with dimensions and location.
- x Two (2) checks, one in the amount of \$ 150. and the second check in the amount of \$ 500., each payable to the TOWN OF NEW WINDSOR.
- x Photographs of existing premises from several angles.

*copy of deed only; search or title policy from time of 1961 purchase was destroyed by fire.

X. Affidavit.

Date: November 1, 1995

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

DORI ASSOCIATES, INC.

By: *Richard B. Coloni*

(Applicant)

Richard B. Coloni,
Secretary-Treasurer

Sworn to before me this

1st day of November, 19 95.

XI. ZBA Action:

Daniel S. Lucia
DANIEL S. LUCIA
Notary Public, State of New York
Qualified in Orange County
My commission expires 2/20/97

(a) Public Hearing date: _____

(b) Variance: Granted (____) Denied (____)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

Schedule A

History of the Property

The applicant, Dori Associates, Inc., is the owner of a 5.1 acre parcel on the west side of Route 9 W which is commonly known as the "Coloni Funeral Home" property. Dori Associates, Inc. is a corporate entity which is wholly owned and controlled by the Coloni family. Dori Associates, Inc. acquired title to the subject property in 1961 by deed of the father and mother/grandfather and grandmother of the present operators of the funeral home.

In 1961 the subject property was improved by a large two story building which was operated as a funeral home prior to the adoption of zoning by the Town of New Windsor, and it continues to be operated as a funeral home. Thus such use as a funeral home is a preexisting, nonconforming use.

The property is currently zoned as Neighborhood Commercial (hereinafter "NC"). In the NC zone the operation of a funeral parlor is a use permitted by right, subject to site plan approval by the Planning Board (Table of Use/Bulk Regulations NC zone, Col. A, Use 13).

In 1988 the applicant constructed a one story, 2,268 square foot, single family home at the northwest corner of the subject property. The same is occupied by Richard V. Coloni and Angelina Coloni, both officers of Dori Associates, Inc., and serves as their residence. Since the use of such home apparently was considered to be accessory to the funeral home business, it was deemed to be a permitted use in the NC zone. Thus no use variance was required when the home was constructed. No area variances were required either since the property, improved by both the funeral

home and the single family home, complied with all the bulk regulations for the NC zone. Ultimately a Building Permit and a Certificate of Occupancy were issued for the single family home.

The applicant now desires to subdivide the 5.1 acre parcel into two lots, namely a 4.339 acre parcel improved by the existing funeral home and a 0.760 acre parcel improved by the existing single family home. Since the existing single family residence is to be on a separate lot in the NC zone, and thus is no longer accessory to the funeral home business, it is a use not permitted in the NC zone. Hence a use variance is required. In addition, the bulk regulations for the NC zone do not contain any bulk requirements which are analogous to those for a free standing single family home. Consequently the bulk regulations from the Suburban Residential (hereinafter "R-4") zone have been imported since they are reasonably related to the proposed single family use. In addition, the rear boundary of the subject property is the division line between the NC and R-4 zoning districts, so the application of the R-4 bulk requirements is consistent with the neighboring residential uses. The bulk regulations for one family detached dwellings, not to exceed 1 dwelling on each lot, with both central sewer and central water, were applied (Table of Use/Bulk Regulations R-4 zone, Col. A, Use 10).

Use Variance

The applicant brings this application before the ZBA in connection with a proposed subdivision of the applicant's 5.1 acre parcel in order to separate the existing funeral home and the existing single family home onto separate tax lots. The applicable zoning regulations and restrictions cause the applicant unnecessary

hardship and the proposed subdivision gives rise to the minimum variance necessary and adequate to address the unnecessary hardship and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

At the public hearing the applicant expects to present evidence through its real estate appraiser to show that for each and every permitted use under the zoning regulations for the NC zoning district, the applicant cannot realize a reasonable return on the existing 5.1 acre parcel. The said appraiser will present competent financial evidence to show that the lack of reasonable return is substantial. In brief, the said appraiser will show that the excess land theory applies to this property, making the front acreage considerably more valuable than the rear acreage. If the rear portion of the property were used for any permitted NC use, there would be difficulties with access, visibility, and signage. Considering the steep slope up to the rear of the property, as well as the very deep NC zone (which extends the full 422 to 466 foot depth of the applicant's property), it becomes apparent that the rear acreage of the property is unsuitable for each and every permitted use in the NC zone and thus the applicant is unable to realize a reasonable return if confined to permitted NC uses.

The hardship relating to this property is unique. At the northerly end of this NC zoning district, only the applicant's property and the adjacent lots are located in such a deep NC zone. The depth of the NC zone on many other nearby lots is only about 200 feet which does not give rise to the excess rear acreage, far removed from Route 9 W, with which the subject parcel is burdened.

The requested use variance will not alter the essential

character of the neighborhood. The entire rear boundary of the applicant's property borders the R-4 zone and the adjacent properties are improved with residences. The property adjacent on the northerly side of the subject property (which is owned by members of the Coloni family) is improved with a residence. After two intervening tax lots to the south of the subject property, the depth of the NC zone drops to 200 feet from Route 9 W and the lands which are more than 200 feet from Route 9 W are zoned R-4.

The hardship has not been self-created. The applicant's 5.1 acre lot existed, with its current boundaries, before the adoption of zoning by the Town of New Windsor. When the zoning map was drawn, the NC zoning district was created with variable depths--sometimes it was drawn along existing rear property boundaries (as was the case with the applicant's property) and sometimes it was drawn at an arbitrary depth of 200 feet from the road. While it is true that drawing the zoning district boundary along existing property lines avoids splitting a landowner's parcel between two zones, this sometimes has the effect, as in the instant case, of creating a zone which is too deep to be used for its intended purposes. As the owner and operator of the subject property, the applicant knew that the rear acreage was unsuitable for NC uses. Thus it was natural for the applicant to construct a residence at the rear portion of its property because it was well suited for such residential use. The applicant seeks upon this application to alleviate the hardship created by the excessively deep NC zone affecting its property.

Area Variances

The instant application also gives rise to two area variances on account of insufficient rear yard and insufficient street frontage. Under the NC zone bulk regulations, the existing single family residence complied with all bulk requirements and no area variances were required when the house was constructed. However, now that the applicant proposes to subdivide the property, and the R-4 zone bulk regulations are imported into the NC zone, it appears that the proposed lot containing the residence has insufficient rear yard and street frontage.

The required rear yard in the R-4 zone is 40 feet and the applicant is providing only 32 feet which generates the need for a variance of 8 feet. The main structure of the house is more than 40 feet from the rear line but the location of several decks around a pool and an enclosed room at the rear give rise to the variance request here.

The required street frontage is 60 feet and the applicant is providing only 25 feet which generates the need for a variance of 35 feet. The 25 feet of street frontage is on a "flag" which extends from the main body of the residential lot down a steep slope to Route 9 W. Although it would be feasible to locate a driveway on this flag, the applicant intends to access the residence by means of a right of way over the existing blacktop drives and parking areas on the funeral home parcel. Thus the access to the house would continue to exist as it has historically. This will avoid the necessity of an additional driveway intersecting the southbound acceleration lane onto Route 9 W South. If, in the future, it should become necessary to construct a

separate driveway, the Town of New Windsor Planning Board has suggested that, in order to ameliorate the effect of the steep slope, the applicant and the owners of the adjacent property on the north (who are members of the Coloni family) should create reciprocal cross-grading easements for the driveways. The applicant and the owners of the adjacent land will comply with the suggestion of the Planning Board.

The benefit to the applicant if the ZBA grants the requested area variances, which would allow the existing residential home to continue to exist on a separate lot, outweighs the detriment to the health, safety and welfare of the neighborhood or community by the grant of such variances. The lands immediately to the west and to the north of the parcel containing the applicant's single family home are developed as residential properties. After two intervening tax lots to the south of the subject property, the lands to the south are zoned for residential purposes (R-4). The variances requested will have only a negligible effect on health, safety and welfare. The Planning Board's suggestion regarding the development of a possible future driveway appears to ameliorate the adverse effects which might arise from the requested street frontage variance.

There will be no undesirable change produced in the character of the neighborhood and no detriment to nearby properties will be created by the granting of the area variances. The subject residential property is adjacent on two sides to other residential properties. There will be no new, adverse impacts created by the granting of the requested variances. The character of the neighborhood will remain the same--the existing residential home is

unchanged. There will be no detriment to nearby properties created since the Planning Board has seen to it that, if a driveway is developed on the "flag", it will be coordinated with the driveway on the adjacent property.

The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. Since the only portion of the existing house which encroaches on the required rear yard are the rear portion of the decks surrounding the pool and the enclosed room, the partial removal of the same would obviate the need for a variance but that is not really feasible since it would severely restrict access to the pool and the enclosed room. In addition, removal of the areas encroaching on the required rear yard would not change in any realistic way the impact of the applicant's deficient rear yard on the neighbors and neighborhood. The street frontage variance could be obviated by widening the "flag" portion of the residential lot to 60 feet but this would create even greater access difficulties since it would intersect with the main entrance drive to the funeral home. While access could be preserved by granting a right of way to the funeral home, this solution is not really feasible since the confusion created by modifying access to the funeral home along busy Route 9 W, at the point it intersects the acceleration lane from Blooming Grove Turnpike, would not in any way benefit the public health, safety and welfare.

The requested area variance for rear yard is not substantial since it is a relatively small percentage request and it does not involve the main structure of the house. The requested area variance for street frontage is substantial as a percentage of

the minimum street frontage. However, given the steep slope, given the difficulty of relocating or widening the "flag" in any feasible way which would improve public safety, and given the ameliorative condition which the Planning Board has suggested for the driveway and to which the applicant has agreed, it is submitted that the granting of a numerically substantial street frontage variance is warranted here.

The proposed area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The single family residential home is existing on the site. In reality, there will be no change in the physical or environmental conditions in the neighborhood or district. The only possible future change might be if the driveway was relocated to the "flag" portion of the residential lot. In that event, the ameliorative condition suggested by the Planning Board should alleviate any adverse effects or impacts resulting therefrom.

The alleged difficulty has not been self-created. Please refer to the analysis of this issue in the use variance section above. In addition, when the single family residence was constructed, it complied with all the bulk requirements for the NC zone. It is only because of the proposed subdivision, and the importation of the R-4 zone bulk requirements into the NC zone, that any area variances are required.

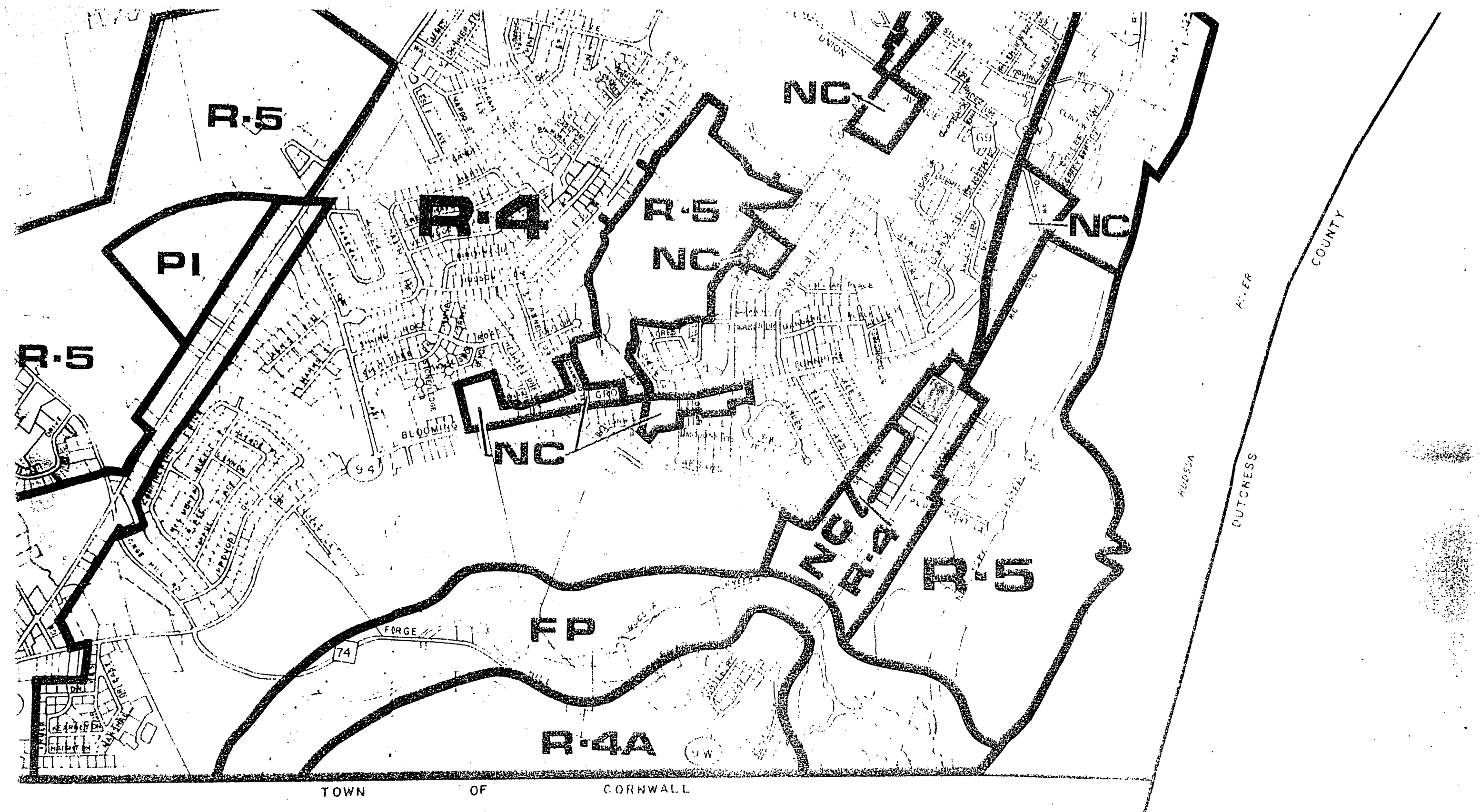
The requested area variances are the minimum variances necessary and adequate to achieve the benefit sought by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the

community.

Conclusion

For the aforesaid reasons, the applicant respectfully submits that it has shown (1) that the applicable zoning regulations and restrictions have caused unnecessary hardship and that it is entitled to the requested use variance and (2) that the benefit to the applicant if the requested area variances are granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant of area variances.

It is respectfully submitted that the variances requested by the applicant are the minimum variances necessary and adequate to address the unnecessary hardship shown by the applicant, and to address the relief from the bulk regulations requested by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.



Coloni-
Dori Assocs.

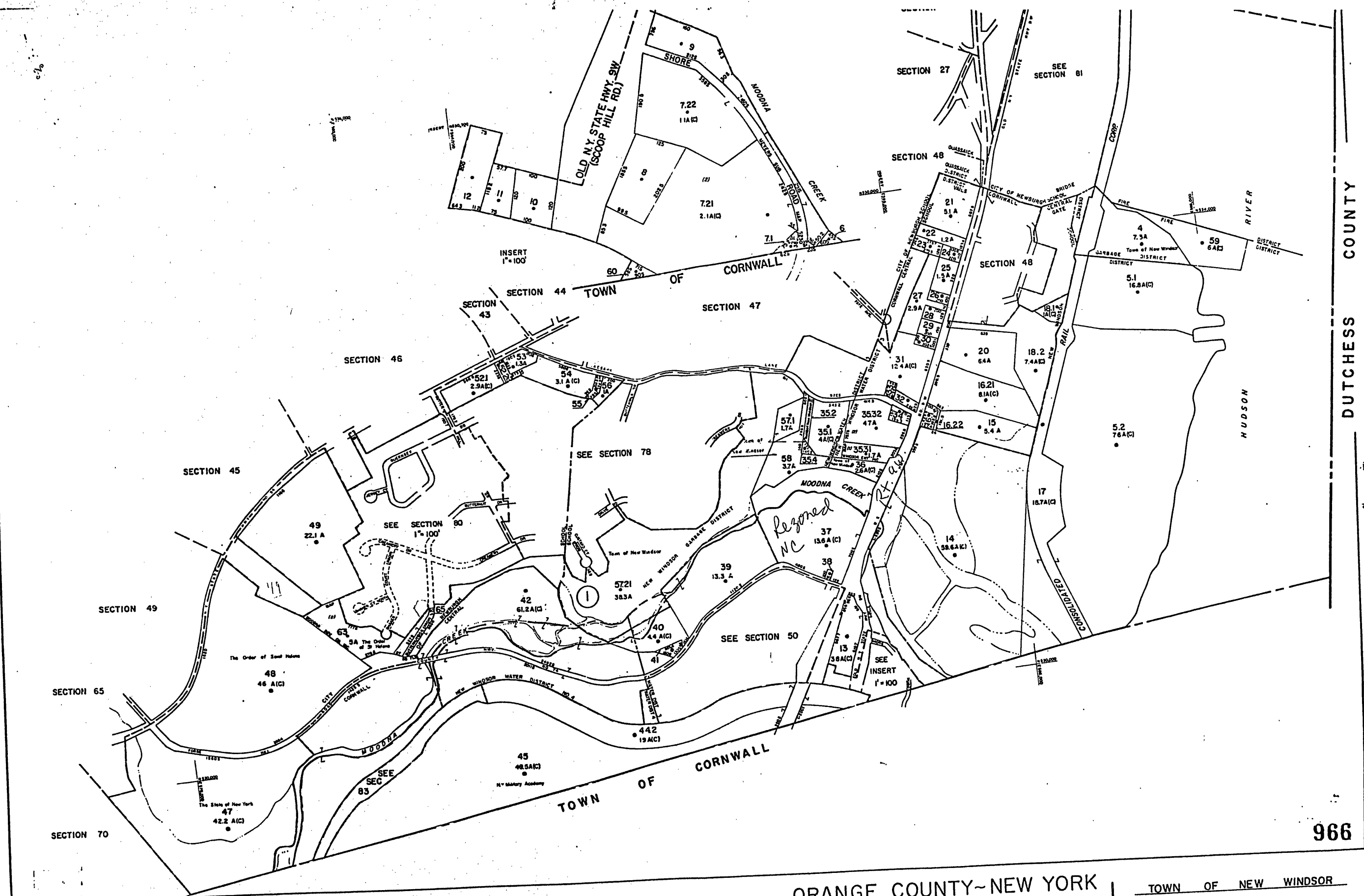
1977

#95-49

Section 37.1

REVISIONS AFTER 1/78 by

OFFICE OF THE TOWNSHIP



966

AERO SERVICE
FOR TAX PURPOSES ONLY

LEGEND			
STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO.	FILED PLAN BLOCK NO.
CITY TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL NO.	FILED PLAN PARCEL NO.
BLOCK & SECTION LIMIT	WATCH LINE	AREAS	STATE HIGHWAYS
SPECIAL DISTRICT LINE	STREAMS	DIMENSIONS	COUNTY HIGHWAYS
PROPERTY LINE			TOWN ROADS

ORANGE COUNTY-NEW YORK

Photo No. 8-496,497,498
Date of Photo: 3-1-65

Date of Map: 9-24-67
Date of Revision: 3-1-79

TOWN OF NEW WINDSOR
Section No. 37

TOWN OF NEW WINDSOR

In the matter of the Zoning
Board of Appeals Use/Area
Variance Application No. 95-49,
Town of New Windsor, Orange County
New York. Section: 37-1-21
Premises: 113 US Hwy 9W
Request of: Dori Associates

I Richard A. Lawson, being duly sworn, depose and say:

That, I have been continually engaged in real estate appraising since 1971. My present Department of State certified appraiser license number is 45-1282. During such period of time I have engaged in the sale, management, mortgaging and appraisal of various types of real estate within the State of New York including vacant land, residential, commercial, industrial and multiple dwelling buildings.

That, I hold membership in the New York Society of Real Estate Appraisers. I am a member of the Appraisal Institute. I am a CRA (Certified Review Appraiser) with the National Association of Review Appraisers, a senior designated member. I am a New York licensed instructor for real estate appraising, number I22.

That, I do not have, nor do I contemplate a financial interest in this property. My fee for this analysis is not contingent on the values. No responsibility is assumed for matters of a legal nature.

That, I am President of Lawson Appraisal Service, Inc., with a mailing address of PO Box 1380, Hopewell Junction, New York 12533.

That, the area is developed both commercially and residentially with maintained properties in the \$110,000 to \$2,500,000 price ranges. Public schools, churches and synagogues are located within the area.

That, I have applied standard appraisal experience in order to determine that for each and every permitted use under the zoning regulations for the NC zoning district, the applicant cannot realize a reasonable return on the existing 5.1 acre parcel. The following analysis will show why the lack of a reasonable return exists.

The following appraisal approaches are utilized in order to illustrate the analysis.

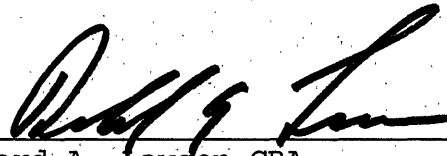
LOCATIONAL OBSOLESCENCE

THE TOWN OF NEW WINDSOR ASSESSOR VALUE ANALYSIS

EXCESS LAND THEORY

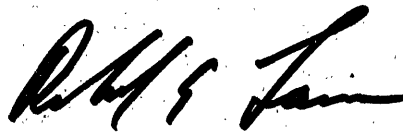
ZONING BOUNDARY CONTRADICTION.

THE HIGHEST AND BEST USE APPROACH



Richard A. Lawson CRA
Pres., Lawson Appraisal Service, Inc
NYS Certified License #45-1282

Affirmed under penalty
of perjury this 21st day
of November, 1995.



HIGHEST AND BEST USE

Highest and best use may be defined as:

- "1. The reasonable and probable use that supports the highest present value of vacant land or improved property, as defined, as of the date of the appraisal.
2. The reasonably probable and legal use of land or sites as though vacant, found to be physically possible, appropriately supported, financially feasible, and that results in the highest present land value.

3. The most profitable use."

(The Dictionary of Real Estate Appraisal (1985)
published by the American Institute of Real Estate Appraisers.)

In estimating highest and best use, the appraiser typically evaluates the following:

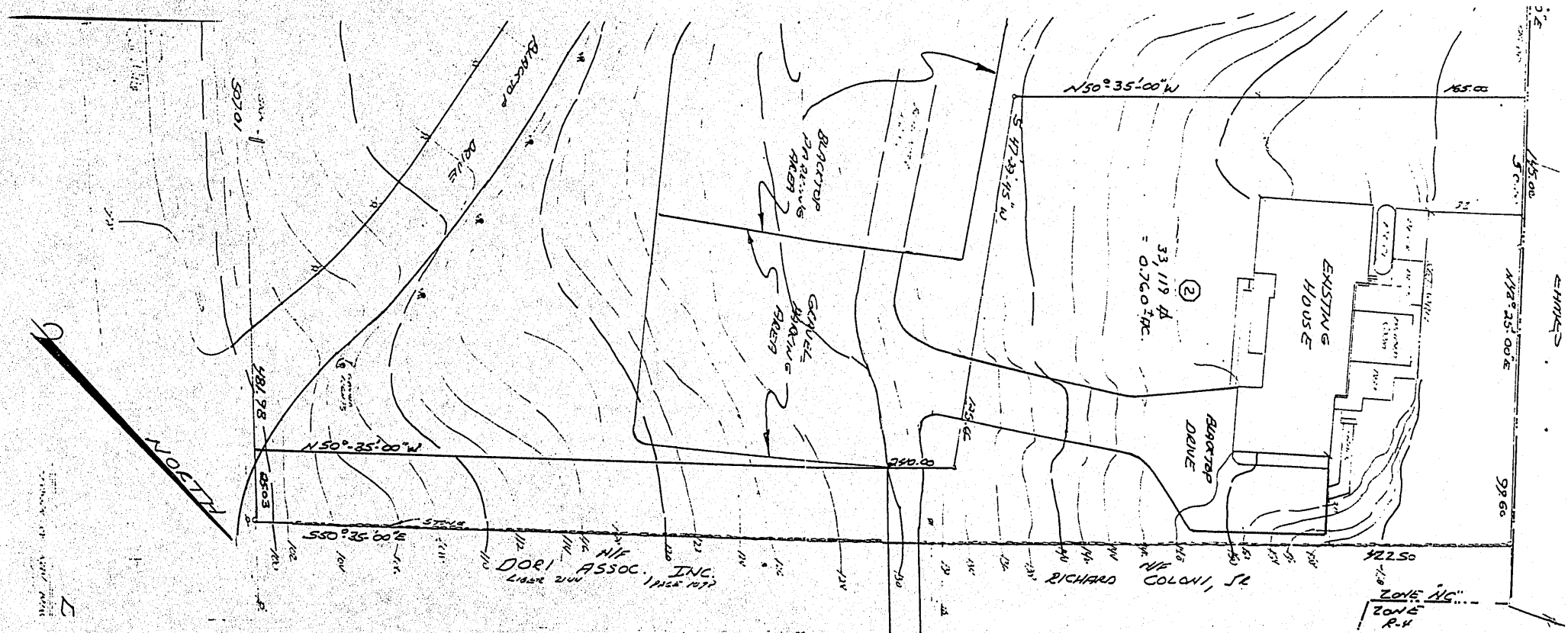
- 1) Possible use - what uses are physically possible considering the site's size, configuration, topography, availability of utilities, etc.
- 2) Legal (permissible) use - what uses are legally permitted by zoning regulations are not prohibited by deed restrictions or covenants.
- 3) Financially feasible use - which uses, being both possible and legally permitted, will produce any net return to the site.
- 4) Highest and best use - among the feasible uses, which use will produce the highest net return.

Following inspection of the subject property, including a review and analysis of the neighborhood, site and zoning, consideration of the future income or other amenity potential of the property over its remaining useful and economic life, and based upon the appraiser's background, knowledge, training and experience in the real estate market, it is his opinion that, as of the analysis date, the highest and best use for the subject property is for residential.

SUMMARY OF FACTS AND CONCLUSIONS

The following summary with respect to the subject property is provided at this point in this analysis for purposes of clarity and understanding in approaching this report. Conclusions contained herein are based upon the material in the report and the appraiser's training and experience. They have been developed and reached through the use of common and accepted appraisal theory and practice and represent the appraiser's considered judgment and opinion with respect to the subject property as of November 9, 1995.

Type of property	: Improved land
Land area	: 33,119 sq. ft via survey.
Property rights appraised	: Fee simple
Zoning district	: NC TO R-4
Parking	: Ample
Highest and best use	: As residential: same as to West and East.
Square footage	: 2,268 gross living area
Improvements	: One ranch style residence.
Utilities	: Water, sewer and gas.



LOCATIONAL OBSOLESECE

THE PROPERTY ADJACENT TO THE REAR OF THE SUBJECT SITE IS R-4. TO BE IN HARMONY WITH THIS USE THE NC USE IS NOT BALANCED AS THE NC PERMITS THE SUBJECT SITE TO BUILD WITHIN 15 FEET OF THE PROPERTY LINE. THE R-4 IS 40 FEET. THE BULK REQUIREMENT IS 40 FEET VS. 15 FEET SO THAT THE R-4 WOULD OFFER MORE FUTURE PROTECTION TO THE NEIGHBORHOOD WHICH IS TO THE REAR OF THE SITE.

THIS CREATES THE THEORY OF LOCATIONAL OBSOLESECE WHICH IS A FORM OF DIMINISHED UTILITY. AN EXPLANATION OF DIMINISHED UTILITY IS THAT LOSS IN VALUE EXPERIENCED BY A SITE AS A RESULT OF NEGATIVE FORCES OUTSIDE THE BOUNDARIES OF THE PROPERTY. IT IS FREQUENTLY CALLED "ECONOMIC OBSOLESCENCE".

DIMINISHED UTILITY FROM LOCATIONAL CAUSES IS ALMOST ALWAYS INCURABLE. A SITE IS FIXED IN LOCATION; THE SITE CANNOT BE MOVED. THE EXISTENCE OF, OR INTRUSION OF, INHARMONIOUS USES OR RESTRICTIONS SUCH AS SLOPE, EXPOSURE, ETC. INTO THE AREA OF A SITE CREATES LOCATIONAL OBSOLESECE.

BULK TABLE (NC ZONE)

	REQUIRED	PROVIDED
TOTAL AREA	10,000 \pm	187,037 \pm
LOT WIDTH	100 FT.	482 FT.
FRONT YARD	40 FT.	145 FT.
SIDE YARD	15/35 FT.	142/240 FT.
BUILDING HEIGHT	35 FT.	35 FT.
REAR YARD	15 FT.	205 FT.

LAND COVERAGE

	REQUIRED	PROVIDED
TOTAL AREA	10,000 \pm	187,037 \pm
PARKING	90 SPACES	125 SPACES
BUILDING COVERAGE	N/A	12,240 \pm = 6.48%
PARKING COVERAGE	N/A	90,800 \pm = 48.03%
OPEN SPACE	N/A	85,909 \pm = 45.49%

* BULK TABLE - (R-4 ZONE) WATER & SEWER

	REQUIRED	PROVIDED
TOTAL AREA	15,000 \pm	33,119 \pm
LOT WIDTH	100 FT.	150 FT.
FRONT YARD	35 FT.	90 FT.
SIDE YARD	15/30 FT.	30/34 FT.
REAR YARD	40 FT.	32 FT.
STREET FRONTAGE	60 FT.	25 FT.
BUILDING HEIGHT	35 FT.	22 FT.
LIVABLE AREA	1000 \pm	2600 \pm
DEVELOPMENT COVERAGE	30%	19%

THE TOWN OF NEW WINDSOR ASSESSOR VALUE ANALYSIS

THE TOWN OF NEW WINDSOR ASSESSOR HAS ESTABLISHED A HARDSHIP FOR THIS REAR SITE IN DETERMINING THE VALUE FOR THE TOTAL 5.1 ACRE PARCEL OF WHICH THIS .760 ACRE IS A PORTION OF.

THE ASSESSOR HAS CLASSIFIED THE REAR HIGH UP PORTION OF THE TOTAL SITE AS "04" OR "RESIDUAL".

THE FRONT PORTION IS "01"---PRIMARY

THE MIDDLE SECTION IS "02"--SECONDARY

THE REAR, SUBJECT SITE, IS "04"--RESIDUAL.

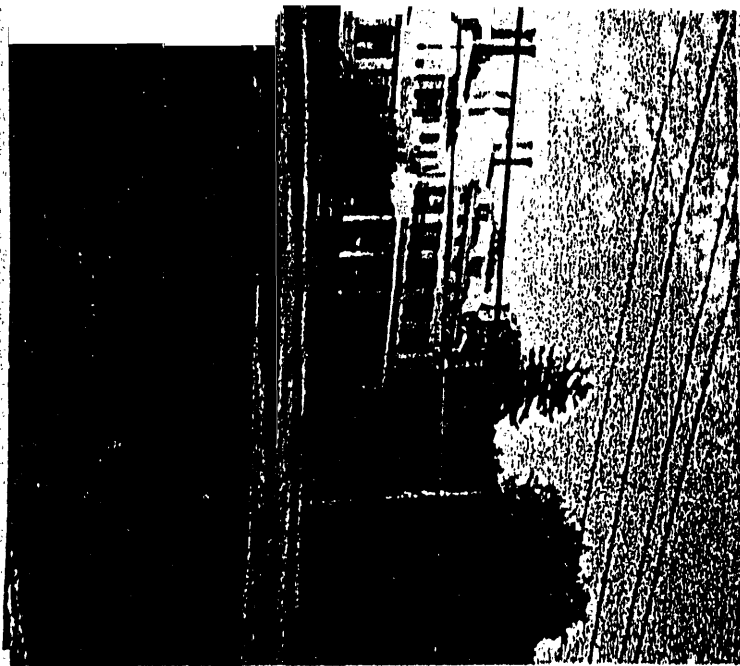
(SEE ATTACHED ASSESSORS VALUATION CARD COPY)

THIS IS IN HARMONY WITH THE THEORY OF EXCESS LAND WHICH IS:

"LAND WHICH IS IN ADDITION TO THAT WHICH IS NECESSARY TO ACCOMODATE A SITE'S HIGHEST AND BEST USE, IS CALLED EXCESS LAND. THESE LARGER PARCELS HAVE TWO HIGHEST AND BEST USES; THE PRIMARY HIGHEST AND BEST USE (NC IN THIS CASE) AND THE HIGHEST AND BEST USE OF THE RESIDUAL OR EXCESS LAND."

IN THIS CASE THE REAR OF THE SITE BECAUSE OF THE LACK OF COMMERCIAL VALUE DUE TO THE DISTANCE FROM THE MAJOR ROAD, 9W, THE STEEP SLOPE AND THE RESULTING LOW VISABILITY.

THE TOWN OF NEW WINDSOR VALUES THE RESIDUAL ACREAGE AT 33.33% OF THE FRONT USEABLE PORTION.



ASSESSMENT	19 <u>93</u>
LAND	<u>71,000</u>
IMPROVEMENTS	<u>183,400</u>
TOTAL	<u>254,400</u>
EXEMPTION	
TAXABLE	

LAND DESCRIPTION		VALUATION FRONTAGE	VALUATION DEPTH	UNIT PRICE	DE. FAC
0 NONE	N				
LAND CODES	LOT				
	L				
	L				
	L				
01 PRIMARY SITE					
02 SECONDARY SITE					
03 UNDEVELOPED					
04 RESIDUAL					
05 TILLABLE	SQUARE FEET		SQ. FT		INF
06 PASTURE	S				COL
07 WOODLAND			SQ. FT		1 CC
08 WASTELAND	S				2 TC
09 MUCK			SQ. FT		3 U.
10 WATERFRONT	S				4 E.
11 ORCHARD			SQ. FT		FF
12 REAR	ACREAGE				5 SF
13 HOMESITE	A 01	<u>1.00</u> ACRES		<u>30,000</u>	SI
14. APT. SITE	A 02	<u>1.00</u> ACRES		<u>10,000</u>	6 R.
15 PROPOSED ROAD	A 04	<u>3.10</u> ACRES		<u>10,000</u>	7 EC
16 R.O.W.	A		ACRES		M
17 OTHER	A		ACRES		8 VI
	A		ACRES		9 O.
	A		ACRES		0 N.
TOTAL		<u>5.10</u>			

RECORD OF OWNERSHIP

1	
2	
3	
4	
5	

SEWER

PARK

SCHOOL

AUDIT C

MEASUR

LISTED

SOURCE

ORANGE COUNTY COMMERCIAL
DATA COLLECTION FORM

ZONING BOUNDARY CONTRADICTION

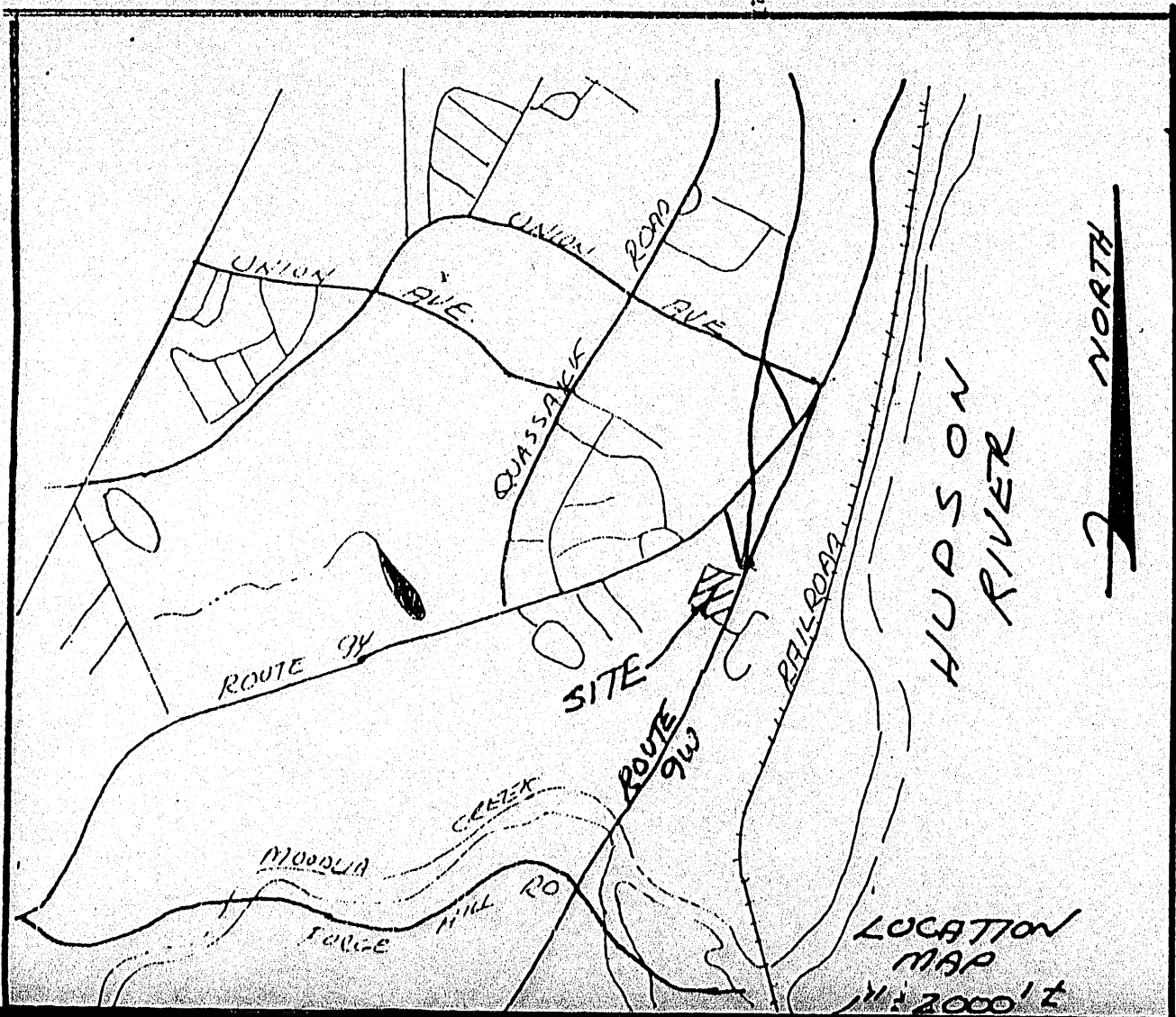
MOST OF THE NC ZONES IN THE AREA EXTEND APPROXIMATELY 200 FEET IN FROM THE ROAD LINE. THIS IS RECOGNIZING THE FRONTAGE VALUE AND NORMALLY A PROTECTION FOR THE HOMES IN FROM THE ROAD.

THE SUBJECT WAS ZONED NC TO THE REAR OF THE SITE, A DISTANCE OF 422.5 FEET, SO AS TO NOT SPLIT THE EXISTING FUNCTIONAL USE WHEN THE ZONING WAS ESTABLISHED. (THE ORIGINAL USE PREDATES THE ZONING.)

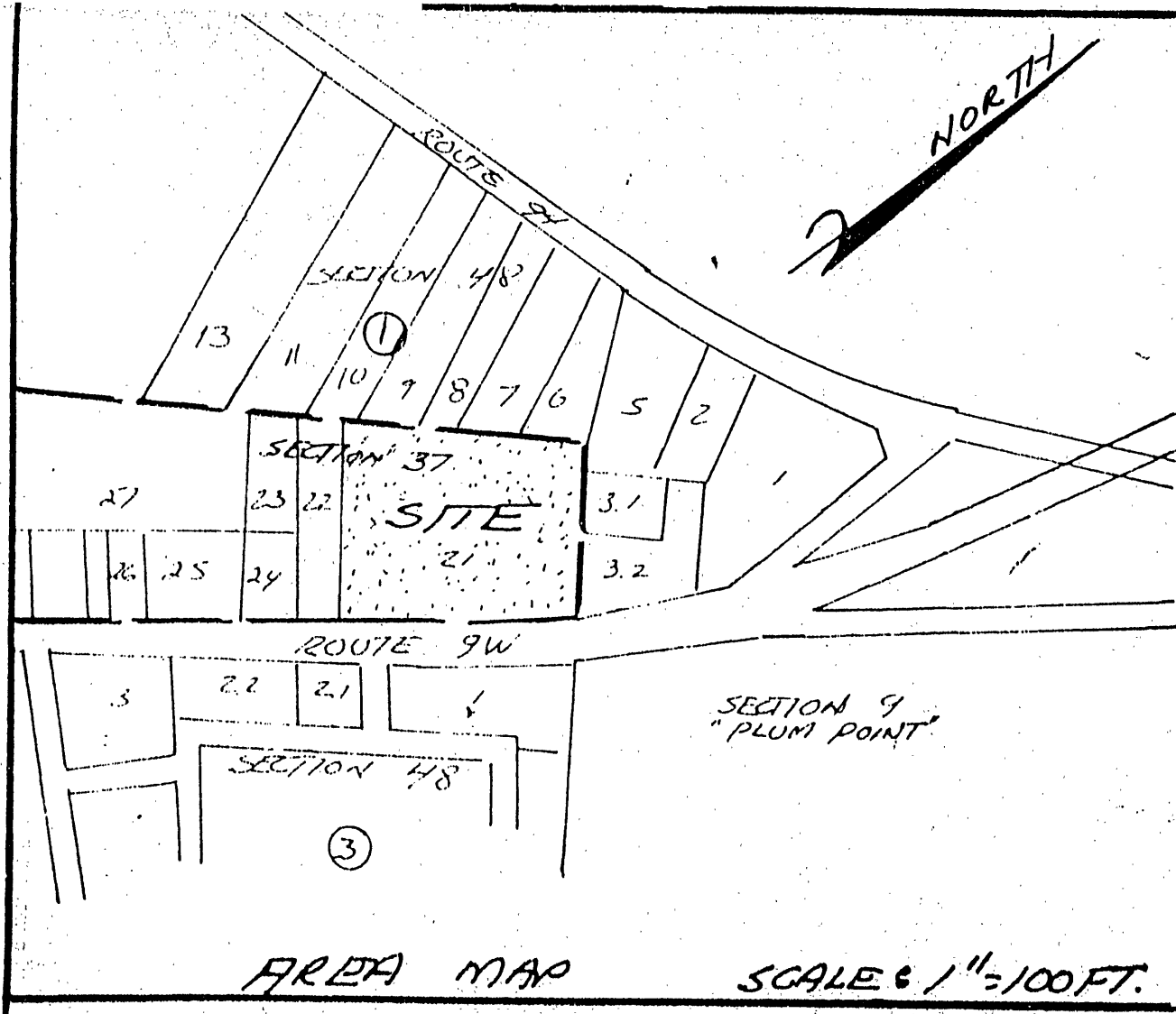
MOST OF THE NC ZONES NEAR THE SUBJECT WERE ZONED THE NORMAL 200 FEET IN FROM THE FRONTAGE.

BECAUSE OF THE SLOPE, DEPTH, ACCESS AND SIGNAGE HANDICAPS THE SITE IS BEST ZONED AT THE REAR AS WITH MOST OF THE SURROUNDING SITES IN THE AREA.

PLEASE REFER TO THE ATTACHED BULK TABLE REQUIREMENTS WHICH INDICATE A LESS INTENSIVE USEAGE AS R4. THIS ALSO ADDS TO THE HEALTH, SAFETY AND WELFARE OF THE NEIGHBORHOOD AS AN ADDITIONAL BENEFIT BECAUSE OF THE LACK OF ECONOMIC VIABILITY WHEN UTILIZED AS NC.



LOCATION
MAP
1:2000'±



MARKET VALUE

The definition on market value which follows is taken from The Dictionary of Real Estate Appraisal, a publication of the American Institute of Real Estate Appraisers, 1984 edition.

"The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably and for self-interest, and assuming that neither is under undue duress."

"Fundamental assumptions and conditions presumed in the definition are:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.
4. Payment is made in cash, its equivalent, or in specified financing terms.
5. Specified financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.
6. The effect, if any, on the amount of market value of a typical financing, services, or fees shall be clearly and precisely revealed in the appraisal report."

LAWSON APPRAISAL SERVICE INC.

P.O. BOX 1380 HOPEWELL JUNCTION, NEW YORK 12533
(914) 297-1968 FAX ONLY - (914) 297-1412

QUALIFICATIONS OF RICHARD A. LAWSON

I am president of Lawson Appraisal Service, Inc., mailing address P.O. Box 1380, Hopewell Junction, New York 12533. My company is primarily engaged in the appraisal of residential and commercial properties in the counties of Westchester, Putnam and Dutchess, State of New York. My New York State Certified Residential Real Estate Appraiser license number is 45000001282.

I have participated in the appraisal of various types of real estate throughout the New York area, including vacant land, residential and commercial, as well as tax payers and office buildings.

I hold a Bachelor of Science degree from Temple University, Philadelphia, Pennsylvania.

I hold membership in the New York Society of Real Estate Appraisers and am an SRA designated candidate. I am a CRA, Certified Review Appraiser, of the National Association of Review Appraisers; I am a senior designated member.

I am licensed by the state of New York to teach Certified Appraisal courses. My state teaching license is #I22.

I have affiliate association with the Westchester MLS, the Westchester/Putnam MLS, the MLS of Putnam County, the Mid-Hudson MLS, and the Orange County MLS.

I have been active in appraising since 1971. I have participated in Certiorari and other proceedings and have been called as an expert witness before the Supreme Court of Westchester County and Federal Southern District Court in White Plains, New York.

I hold an Errors and Omissions policy with the Home Insurance Company.

Please refer to the next page for a partial list of my major clients.

Federal ID# 14-1685354

MEMBER: NEW YORK STATE SOCIETY OF REAL ESTATE APPRAISERS

REPRESENTATIVE CLIENTS

Financial Institutions

Albany Savings Bank
Amalgamated Bank of America
Applied Equity Corporation
Barclay's Bank
Chase Manhattan Bank
Citibank
Crestmont Federal Savings and Loan
Dale Mortgage Bankers Corp.
First Federal of Rochester
First Nationwide Savings Bank
First Northern Bank
Greater Metro Financial Service
Home Funding Corporation
Home & City Savings Bank
Independence One Mortgage Corp.
Liberty Mortgage Banking
MidIsland Equities Corporation
MidHudson Equities
Midlantic Home Mortgage Corp.
Morsemere Bank
National Bank of Westchester
Pawling Savings Bank
Prudential Mortgage Co. Inc.
Sawyer Savings Bank
Solid State Funding
Ulster Savings Bank
Union State Bank
1st Northern Mortgage Corporation

Commercial & Industrial

Argonaut Relocation
Coldwell Banker Relo.
General Motors
Homequity Relocation
Merrill Lynch Relocation
New York Telephone
Owens Corning Fiberglass
Prudential Relocation
Southern Bell Telephone
Transamerica Corporation

Municipal Agencies

Town of Yorktown, NY
Federal Court, White
Plains, NY
Certiorari proceedings
NY State Facilities
Development Corp.

Supreme Courts of:

Westchester County
Putnam County
Dutchess County

MEMBERSHIPS

The New York State Society of Real Estate Appraisers
The Society of Real Estate Appraisers, Chicago, Ill. [Candidate
for the SRA designation.]
The New York State Association of Realtors
CRA - Certified Review Appraiser, senior designated member, the
National Association of Review Appraisers
The Putnam County Board of Realtors

AFFILIATED MEMBERSHIP

Mid-Hudson Multiple Listing Service
Westchester-Putnam Multiple Listing Service
Westchester County Multiple Listing Service
Putnam County Multiple Listing Service
Orange County Multiple Listing Service

UNIQUE ID NUMBER

45000001282

State of New York
Department of State

DIVISION OF LICENSING SERVICE

PURSUANT TO THE PROVISIONS OF ARTICLE 6E OF
EXECUTIVE LAW AS IT RELATES TO R.E. APPRAISER

LAWSON RICHARD A
C/O LAWSON APPRAISAL SERVICE
9 LONG CT
WAPPINGERS FALLS, NY 12590

HAS BEEN DULY CERTIFIED TO TRANSACT BUSINESS
R.E. RESIDENTIAL APPRAISER

18011

EFFECTIVE DATE

MO.	DAY	YR.
01	07	94

EXPIRATION DATE

MO.	DAY	YR.
01	06	96



STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER
SECRETARY OF STATE


December 18, 1991

Instructor Approval

The office of Secretary of State, Gail S. Shaffer, is in receipt of your application for Real Estate Appraiser Instructor.

Pursuant to Section 1103.22 of the Rules and Regulations established by the New York State Real Estate Appraisal Board, Richard Alan Lawson has qualified as an instructor in courses for the following classification(s).

- ☒ Licensed Real Estate Appraiser
- ☒ Certified Residential Appraiser
- ☐ General Residential Appraiser
- ☒ Ethics and Standards


Kathleen M. McCoy
Associate Examination Technician
Bureau of Educational Standards

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Dori Associates

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

95-49.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On Nov 15, 1995, I compared the 46 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
15th day of November, 1995.

Deborah Quinn
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

46

November 08, 1995

DORI ASSOCIATES
% Daniel S. Lucia, Esq.
343 Temple Hill Road
New Windsor, N. Y. 12553

Re: Tax Map Parcel #37-01-21

Dear Mr. Lucia:

According to our records, the attached list of property owners are within five Hundred (500) feet of the above-referenced property.

The charge for this service is \$65.00, minus your deposit of \$25.00, leaves a balance due of \$40.00.

Sincerely,

LESLIE COOK
Sole Assessor

/pab
Attachment

~~cc: Mr. Patricia Ann Barnhart, ZBA~~

Green, George A. & Deborah A. X
53 Farmstead Rd.
New Windsor, N. Y. 12553

Antonelli, Achille P. & Josephine M.
1 Farmstead Road X
New Windsor, N. Y. 12553

Petro Realty of New York, Inc.
111 Route 9W X
New Windsor, N. Y. 12553

Bonura, Mary E.
87 Route 9W South X
New Windsor, N. Y. 12553

Millman, Walter S. M. & Jeanne A.
38 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Longo, Steven
40 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Quicksell, James B. & Joanne
46 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

McClellan, Donald & Anne
50 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Henstebeck, Edward A., Jr. & Andrea E.
52 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Cortez, Renan & Christie X
One Blooming Grove Tpk.
New Windsor, N. Y. 12553

Zampino, Rosemarie X
37 Madder Lake Circle
Commack, N. Y. 11725

Coloni, Richard Brian & Mary Catherine
P. O. Box 4097 - Route 9W X
New Windsor, N. Y. 12553

Bacon, Kevin J.
95 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Eames, Douglas Harry & Grace L.
Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Sheffield, Martin & Mary P. X
33 Blooming Grove Tpk.

New Windsor, N. Y. 12553

Marasco, Evelyn A.
37 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Chiovin, Peter & Lee C. X
41 Blooming Grove Tpk.
New Windsor, N. Y. 12553

Durham, Gary & Carol X
45 Blooming Grove Tpk.
New Windsor, N. Y. 12553

Church of the Nazarene of Newburgh
59 Blooming Grove Tpk. X
New Windsor, N. Y. 12553

Greene, Charles B. & Rosemarie X
61 Blooming Grove Tpk.
New Windsor, N. Y. 12553

Fabiano, Frank D. & Mary An
9 Nee Avenue X
New Windsor, N. Y. 12553

Hannigan, Carolyn
Nannini, Duane X
11 Nee Avenue
New Windsor, N. Y. 12553

Krawczyk, Stella & Frances X
15 Nee Avenue
New Windsor, N. Y. 12553

McHale, James M. & Patricia T.
19 Nee Avenue X
New Windsor, N. Y. 12553

Slater, Florence May X
23 Nee Avenue
New Windsor, N. Y. 12553

Butt, Javed I. & Arif Iqbal X
114-124 Route 9W
New Windsor, N. Y. 12553

Pisco, Richard V., Jr. & Irene X
23 Lafayette Drive
New Windsor, N. Y. 12553

Crist, Leroy Robert, Jr. & Phyllis R. X
25 Lafayette Drive
New Windsor, N. Y. 12553

Rhodes, Myron L. & Eleanor J. X
27 Lafayette Drive
New Windsor, N. Y. 12553

Bonnano, Joseph, Piazzola, Michael &
Papera, Gabriel L. X
% Allstate Can Corp.
40 Isabella Street - P. O. Box 677
Clifton, N. J. 07012

Merry, Dianne Phelan Y
26 Lafayette Drive
New Windsor, N. Y. 12553

Corey, Caroline J. X
26B Lafayette Drive
New Windsor, N.Y. 12553

McDonnell, William & Christine
40 Lafayette Drive X
New Windsor, N. Y. 12553

Turner, Richard & Diane J. X
2 Lafayette Drive
New Windsor, N. Y. 12553

Belsito, Grace & Ralph F. Jr.
4 Lafayette Drive X
New Windsor, N. Y. 12553

Niedbala, John S. & Betty
6 Lafayette Drive X
New Windsor, N. Y. 12553

Llewellyn, Robert & Amelia X
8 Lafayette Drive
New Windsor, N. Y. 12553

Conklin, Edward L. & Katherine T. X
12 Lafayette Drive
New Windsor, N. Y. 12553

Cohen, Stanley C. X
P. O. Box 35
Vails Gate, N. Y. 12584

Nucifore, Alan & Deborah X
16 Lafayette Drive
New Windsor, N. Y. 12553

Beyers, Edward C. & Marcia K. X
18 Lafayette Drive
New Windsor, N. Y. 12553

Marcano, Domingo & Alejandrina
20 Lafayette Drive X
New Windsor, N. Y. 12553

Artusa, Eugene X
P. O. Box 2547
Newburgh, N. Y. 12553

Valicenti, Audrey
108 Route 9W South
New Windsor, N. Y. 12553

Gaillard Realty Associates, LLC
% Toyota of Newburgh
Route 9W
New Windsor, N. Y. 12553

Plum Point-on-Hudson Condominium Association
93-150 Old Route 9W
New Windsor, N. Y. 12553

FORM 660 N. Y. DEED—QUIT CLAIM

(Laws of 1917, Chap. 661, Statutory Form D)

BOOK 1610 PG 740

TUTBLANK REGISTERED U.S. PAT. OFFICE
Title Law Print. Publishers, Rutland, Vt.

This Indenture,

Made the
Sixty- One,

1st

day of June

Nineteen Hundred and

Between DOMINICK A. COLONI and MARGARET M. COLONI, husband
and wife, both residing at No. 14 Overlook Place, City of Newburgh, County of
Orange, State of New York,

parties of the first part, and

DORI ASSOCIATES, INC. , 14 Overlook Place, Newburgh, New York

part y of the second part,

Witnesseth, that the *part y of the first part*, in consideration of

-----ONE-----Dollar

(\$ 1.00 -----) lawful money of the United States, and other good and valuable considerations, *paid by the part y of the second part,*
do es hereby remise, release, and quitclaim unto the part y of the second part,
its successors *and assigns forever, all that piece or parcel of land,*
together with the buildings and improvements thereon, situate, lying and being
in the Town of New Windsor, Orange County, New York, bounded and described
as follows:

BEGINNING at a point in the westerly line of Route 9W at the northeasterly corner of the lands on the westerly side of said Route 9W, which were heretofore conveyed to the Andrea Corporation by William L. Nicoll and Elizabeth B. Nicoll and Anne Camac Nicoll Wightman by deed dated December 22, 1950, and recorded in the Orange County Clerk's Office on December 26, 1950, in Liber 1183 of Deeds at Page 472; and runs thence from said point of beginning along the northerly line of said lands North 50° 35' West 423.80 feet to a point; thence along the westerly line of said Nicoll lands being the westerly line of the lands hereby conveyed, the following three courses and distances: (1) South, 42° 25' W. 99.6 feet to a point; (2) South 42° 06' W. 145.0 feet to a point; (3) South 41° 01' W. 250.0 feet to a point; thence turning and running along the northerly line of a lot recently conveyed by Andrea Operating Corporation to Kenneth G. Corwin and Elizabeth Corwin, South 49° 05' E. 466.20 feet, more or less, to the westerly line of Route 9W; thence along said line North 36° 25' E. 507.5 feet to the point and place of beginning.

The said parcel as hereby described contains an area of 5 and 109/1000 acres, be the same more or less.

BEING the same premises described in deed made December 12, 1957, made by Abraham Farer to Joseph Garzione and Frederick Lippl, Jr., as tenants in common, recorded December 20, 1957 in Liber 1449 of Deeds at Page 381, Orange County Clerk's Office.

BEING the same premises described in deed made February 27, 1958, made by Joseph Garzione by his attorney-in-fact, Frederick Lipi, Jr., conveying his one-half interest to Arthur Frangello, recorded February 27, 1958, in Liber 1455 of Deeds at Page 75, Orange County Clerk's Office.

BEING THE same premises as were conveyed by Frederick Lippi, Jr. to Dominick A Coloni and Margaret Coloni, by deed dated May 21st, 1959, recorded in the Office of the Clerk of Orange County on May 22nd, 1959 in Liber 1503 of Deeds at page 155.



BOOK 1610 PG 741

Together with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,


To have and to hold the premises herein granted unto the party of the second part, its successors and assigns forever.


In Witness Whereof, the parties of the first part have hereunto set their hands and seals the day and year first above written.


In Presence of



Dominick A. Coloni 


Margaret M. Coloni 





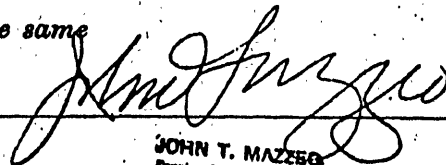




State of New York }
County of ORANGE } SS..
CITY of NEWBURGH }

On this 1st day of June, Nineteen Hundred and
Sixty-One. before me, the subscriber, personally appeared
DOMINICK A. COLONI and MARGARET M. COLONI

to me personally known and known to me to be the same persons described
in and who executed the within Instrument, and they
acknowledged to me that they executed the same



JOHN T. MAZZEO
County of Appointment and
Residence Orange County
Commission Expires March 20, 1962
Orange County Clerk's No. 1043



QUIT CLAIM

DOMINICK A. COLONI and
MARGARET M. COLONI,
husband and wife

TO

DORI ASSOCIATES, INC.

Dated. June 1 1961

STATE OF NEW YORK

County of Orange ss.

RECORDED ON THE
9th day of Feb. A.D. 1962
at 10:40 o'clock A.M.
in LIBER 1610 of DEEDS
at PAGE 740 and examined

N. E. Gottschalk
CLERK

John J. Mazzeo 3-

PROJECT I.D. NUMBER
ZBA # 95-49

617.21

SEQR



Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR DORI ASSOCIATES, INC.	2. PROJECT NAME Proposed Subdivision for Dori Associates, Inc.
3. PROJECT LOCATION: Municipality New Windsor County Orange	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 113 U S Hwy 9 W, New Windsor, NY 12553 Project is located on the west side of Route 9 W, immediately to the south of the southbound acceleration lane providing access to Route 9 W South from Blooming Grove Turnpike.	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Applicant is owner of 5.1 acre property which is improved by an existing funeral home and an existing single family home. Applicant seeks to subdivide the property in order to separate the two existing improvements onto lots of 4.339 and 0.760 acres, respectively.	
7. AMOUNT OF LAND AFFECTED: Initially <u>5.1</u> acres Ultimately <u>5.1</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly Property is zoned NC. Funeral home use is permitted; single family home use not permitted. Use variance required to permit single family home on proposed lot to be subdivided, together with area variances for rear yard and street frontage.	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open space <input checked="" type="checkbox"/> Other Vacant Describe: Land use in the vicinity includes residential (both single family and condominium), commercial (funeral home, motel, restaurant, automobile dealership, and catering hall), Plum Point parkland, and vacant land.	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals If the applicant obtains the requested variances from the Town of New Windsor ZBA, the applicant then must obtain subdivision approval from the Town of New Windsor Planning Board.	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: DORI ASSOCIATES, INC. Date: Nov. 1, 1995	
By:  Richard B. Coloni, Secretary-Treasurer	
Signature: 	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.8? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: C7. Other Impacts (including changes in use of either quantity or type of energy)? Explain briefly: 	
D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly	

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:	
<hr/>	
Name of Lead Agency	
<hr/>	
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
<hr/>	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from responsible officer)
<hr/>	
Date	

Date ...12/25/95....., 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr..... DR.
New Windsor Ny 12553.....

DATE			CLAIMED	ALLOWED
12/23/95		Zoning Board Meeting	75 00	
		Misc - 2		
		Coloni - 11 * 49.50		
		McCarville - 3		
		Thomas - 3		
		Mylonas - 3		
		Francan - 9		
		Belle - 22		
		Dubetsky - 8	274 50	
		61		
			349 50	

PRELIMINARY MEETINGS:

COLONI, RICHARD

MR. NUGENT: Request for use variance to allow existing single-family residence in an NC zone after subdividing property located on Route 9W.

Daniel Lucia, Esq. appeared before the board for this proposal.

MR. LUCIA: Good evening gentleman, Pat and Fran, let me hand out some plans which have previously been before the planning board on this. The matter comes to you from the planning board. The applicant in this case is Dori Associates, Inc., which is the landowner of the property commonly known as the Coloni Funeral Home. It was before the planning board for a subdivision application. As you can see from the map, there are, it's a 5.1 acre piece of property and it's improved by the large funeral home and in the northwest corner, there's a single family residence. The applicant is proposing to subdivide off that residence with a flag down to Route 9W and the planning board referred it here for use and area variances. My first question naturally if we can avoid the necessity of establishing use variance we'd prefer that. I spoke with Mark Edsall today, this area originally was zoned R-4, we could not pinpoint the exact date when the zoning was changed to NC. This house was built, I believe in 1991, Rich?

MR. COLONI: Correct.

MR. LUCIA: So I am not sure if it was still zoned R-4 when the house was built and we couldn't nail it down. The related question concerns how deep the NC zone is from 9W. The property that is to the north of this is not shown here but you can see the adjacent owner listed in the front as Dori Associates and Richard Coloni is owned by obviously the same and related owner. And that was subdivided. And I guess there is a question as the tax maps were changed over the years when that subdivision came in how deep the zone is. So there may be a question as to whether at least part of

the property on which the house sits was in fact in an R-4 zone when it was built. We don't have an answer to that at the moment and I don't know if anyone on the board has any recollection of when the zoning may have been changed. I certainly don't. But if that is correct, it may be a pre-existing, non-conforming use but I'm not sure that we can establish that at this point.

MR. NUGENT: How far is the house from the road approximately? What I see here is 500 feet.

MR. LUCIA: Mr. Barger, can we get a dimension on that quickly?

MR. NUGENT: Looks like on the side is 550.35, I'm not sure where that goes to.

MR. BARGER: The house sits back about 380 from the road.

MR. NUGENT: From the road?

MR. BARGER: Yes, total side line is 422 and it's about 50 feet shy of that, 370 to 380.

MR. NUGENT: I'm sorry, go ahead.

MR. LUCIA: I'm not sure that we have a resolution on that. If I can get definite data to establish it as pre-existing, non-conforming, I certainly will present it to you. But absent that, if it's the pleasure of the board, I'll proceed on the basis that we do need a use variance.

MR. NUGENT: Again, how could that house have been built in 1991 on an NC zone?

MR. LUCIA: My question exactly.

MR. NUGENT: Can you enlighten us on this Mike.

MR. BABCOCK: Well, to the best of my knowledge, there was a, Mr. Coloni demonstrated that there was some type of a requirement that he had a caretaker's apartment on

October 23, 1995

4

the premises for the funeral home, that is how I understood it at the planning board stage, went through planning board for a site plan and it's a manager's office, an apartment is the way that I understood that that to be built. I'm not sure whether it was R-4 or NC.

MR. NUGENT: Can you find out for us when that was changed?

MR. BABCOCK: Now?

MR. NUGENT: No, before the public.

MR. KRIEGER: Certainly by the public, both for use variance and an interpretation and then if he has the information.

MR. LUCIA: We'll proceed on that basis, thank you.

MR. BABCOCK: Yes.

MR. LUCIA: The next issue that comes up in looking at the Notice of Disapproval, the property now is zoned NC but they list as requirements under the zoning table PI zone, I think maybe that should be R-4.

MR. BABCOCK: Yeah, that is wrong. Does yours say PI too?

MR. NUGENT: Requirement PI but up on top it says the zone is NC.

MR. BABCOCK: There shouldn't be any requirements if there is an NC zone, there's no requirements for a single family house in an NC zone. We must have been doing another one that was in a PI at the time.

MS. BARNHART: Do you want to change that Mike?

MR. BABCOCK: I don't think it has to be requirements, it has to be anything.

MR. KRIEGER: Only if it showed that the premises here that may be it was R-4 at the time then the R-4

requirements would apply if it is R-4 at the time.

MR. BABCOCK: That is correct.

MR. NUGENT: The other question that comes vividly to mind because of what we went through with Windsor Counseling, as Dan is well aware of, they stated that the property that is, NC line was 200 feet from the road, is that the case in this situation too or we need to have a zoning map to be able to tell that?

MR. BABCOCK: I think in the case of the New Windsor Counseling Group, Jim, it was the width of the line followed the property line.

MR. NUGENT: But it was 200 feet, it was stated that it was 200 feet. What I am getting at is if this again this NC zone is 200 foot from 9W then he's not.

MR. KRIEGER: Then the question is what part of 9W?

MR. TORLEY: The house is 300 and some feet back anyway, it doesn't make much difference.

MR. BABCOCK: If the zone is only 200 foot back.

MR. TORLEY: Prior to the road but if he's got a hundred feet anyway.

MR. NUGENT: He's 300 plus.

MR. KANE: I don't think it's going to go into 9W at all so he'd become R-4 then.

MR. TORLEY: If it's 200 feet from 9W.

MR. NUGENT: Then all he'd need is a lot line change.

MR. LUCIA: Well, this is something I discussed with Mark because I saw it coming. I think the intention on the more recent zoning changes was to follow the tax lot lines.

MR. BABCOCK: That is correct.

MR. LUCIA: So if that was done and Mark I guess has the only accurate copy of the zoning map in the town, it should be all right. The only ambiguous issue is this lot next door was subdivided. The question that we don't know is depending on the date of that subdivision which lot line they were following so I say before the public hearing, I'll resolve it with Mark. But with your permission, I'll proceed on the basis we do need a use variance. If we don't, I'll certainly make you aware of it when we get to the public hearing.

MR. NUGENT: You're basing it on an NC zone.

MR. LUCIA: Yes, at that point but for purposes of area variances as Mr. Barger showed on his proposed subdivision application, we have imported the R-4 zoning requirements which if that is pleasure of the board, we'll proceed on that basis, since that would seem to be the nearest applicable residential requirements. There are no requirements of this nature at all in the NC zone.

MR. LANGANKE: Could you tell me a little bit about the house, how big is it, how many floors?

MR. LUCIA: Maybe I should defer to Richard Coloni on that.

MR. COLINI: One floor, single floor.

MR. LANGANKE: What's the dimensions of it?

MR. COLONI: Approximately 2,200 feet.

MR. BARGER: 2,200 square feet.

MR. LUCIA: If it's the board's pleasure, shall we proceed on the basis of the R-4 requirements?

MR. NUGENT: Yeah, I would say yeah because that is the only one that we're looking for.

MR. LUCIA: And on that basis as you can see from Mr. Barger's proposed subdivision map, we'll then need two area variances, an eight foot rear yard variance, we

October 23, 1995

7

require 40 feet, we're providing 32 and a 35 foot street frontage variance, we have a flag of just a smidgen over 25 feet fronting on 9W, 60 feet street frontage is required so I believe 35 foot front yard variance. Unless the board sees anything else that I have missed, I think that should cover all our use and area variance requirements.

MR. TORLEY: What's the access to now?

MR. LUCIA: It is up the blacktop drive, the main entrance to the Coloni Funeral Home up along the northerly side of the building and then you can see that the blacktop parking area connects with the blacktop drive but then goes on up to the house so if the subdivision is approved you'll ultimately have to have a right-of-way for the access.

MR. TORLEY: Looks like there's driveway continues off toward the other property.

MR. LUCIA: That is correct and there's another house up there and I'm glad you mentioned that I wanted you to be aware of that, these two properties next door you can see them, the one on 9W is labeled Dori Associates, that is the same owner as the property in question. Just to the northwest of that is Richard Coloni, Jr.'s property, which is another residence which is where Rich Coloni is here tonight has his home and again he uses the same driveway. So we'll need obviously right-of-ways for access. These neighboring properties also have a similar 25 foot flag out to Route 9W so they also do have frontage, although the access is as you see it here they don't come directly out on 9W.

MR. REIS: There is no intent to use the 25 foot stretch that goes to 9W as a--

MR. LUCIA: Not at this point, the issue was raised before the planning board, I should make you aware although it's not relevant to this application, that although that is shown as two lots, they intend to consolidate those into a single tax lot with a single owner. It's now a vacant lot on the frontage off 9W and approved single family residence behind it.

MR. TORLEY: 3.1 and 3.2.

MR. LUCIA: Right, they intend to consolidate those into single tax lots. They each have the 25 foot flag but do not intend to use it but the planning board suggested that they have reciprocal, what do they call that?

MR. BARGER: Grading easements.

MR. LUCIA: Grading easements, it's a very steep slope as you may know and should they ever need to come in there, the idea is to kind of I guess allow the grading to be contoured on both lots which is a 50 foot stretch so as to cut down on the slope of the driveway.

MR. TORLEY: Now, this again this may bear on your variances required if this lot is joined is a single tax lot, what zone are they asking to be?

MR. LUCIA: I think it is NC, the question as I say if the zoning line follows the tax lot maybe 3.1 is R-4 but I don't know the answer to. So, if they join it, they are joining a lot that happens to fall into two zones but there's no prohibition against that may be an inconvenience if they ever wish to subdivide it again.

MR. LANGANKE: So does the lot become one zone or does it--

MR. LUCIA: No, the zone has to be changed by the town so you would then have a lot that falls in two zones.

MR. NUGENT: If it's 50% or better of a zone, it becomes that zone.

MR. LUCIA: Probably.

MR. TORLEY: So the whole thing is over to NC.

MR. NUGENT: We went round and round with that one.

MR. KRIEGER: If it's a 50% it's not relevant to this particular application but as an academic matter, it

looks to me like it might be a close question as to which is 50%, happily, it's not a question that the Zoning Board has to concern itself with.

MR. BABCOCK: I feel that if it's a non-conforming use, if it was built as an R-4 use, he doesn't even need the area variances, unless he's creating area variances by the lot line that he is installing. If it's an existing--

MR. NUGENT: He has 33,000 square feet.

MR. BABCOCK: What I am saying when he's putting a lot line around this home in and that line that he is installing if he is creating any variances because of that line, yes, he needs them but any existing, if it's non-conforming, it's non-conforming.

MR. KRIEGER: It goes along with the status.

MR. BABCOCK: That is correct.

MR. TORLEY: So, he'd now have to put any road frontage at all.

MR. BABCOCK: I don't think you're creating any problems with the new line.

MR. LUCIA: I don't believe so.

MR. BABCOCK: The issue is if this was an R-4 zone at the time the house was built, he doesn't need to be here at all.

MR. NUGENT: Right, exactly.

MR. KRIEGER: So if the interpretation question, the way the application presumably the application wishes that would be the end of the inquiry.

MR. BABCOCK: That is correct.

MR. NUGENT: But--

MR. BABCOCK: We're under the understanding that it's

NC zone, that is why he's here tonight. I'm not sure why but I'm sure we looked at the tax maps and the zone that is there now, I mean I don't go back and look what it used to be, I go by what it is today.

MR. NUGENT: That is what I was just going to say if he, I think he should proceed on the use variance part of it simply because if we need to go that route, he's covered all the bases because you cannot introduce new information.

MR. BABCOCK: That is correct.

MR. TORLEY: If we're, assume for the moment that we're proceeding on the use variance, what would be your claim for hardship.

MR. LUCIA: I have discussed it with an appraiser for the applicant, the various values of the residence of the funeral parlor and of the combined property, I have met with him yet so I will not give you any figures so as to not to give you my interpretation rather than the appraiser's, certainly when we get to the point of establishing unnecessary hardship, I'll have an appraiser here who will offer evidence as to the value of the house, value of the funeral parlor, combined value and what a reasonable return on the property would be. And I hope to present evidence that I think will--

MR. TORLEY: And the property as drawn.

MR. LUCIA: Exactly, so it will be several variations then because I think we need to go at it from different angles but hopefully when he gets there, I'll have sufficient evidence to try and convince you that there is in fact unnecessary hardship along with all the other tests.

MR. KANE: Would you entertain a motion?

MR. NUGENT: I don't, if we don't want him to go any further on the use, otherwise he has to identify each and every item on the NC zone.

MR. KRIEGER: Which he just said he's aware of and he would be prepared at the time of the public hearing.

MR. KANE: He is going to try to submit evidence before the hearing, before a use hearing for an interpretation.

MR. KRIEGER: Same hearing, first he is going to address the interpretation question and if that is unsuccessful, then he will proceed at the same time at the same hearing to go on to the use.

MR. LUCIA: That is correct. You understand exactly.

MR. NUGENT: Then I will entertain a motion.

MR. KANE: Move that we set up Rich Coloni for a public hearing for interpretation and a hearing on his requested use variance.

MR. TORLEY: Second it.

ROLL CALL

MR. KANE	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. REIS	AYE
MR. NUGENT	AYE

MR. KRIEGER: I presume, want my list of use variance criteria?

MR. LUCIA: Why not, I can't say I was shortchanged when I was here.

MR. KRIEGER: In looking at the statute, you'll find some striking similarities.

MR. LUCIA: I'll have photographs, I'll have deeds, the one thing I'll not have is a title policy or a search, Mr. Coloni tells me that apparently he received it from his attorney but it was destroyed in a fire some years ago. I don't know if that poses a problem for anyone on the board.

October 23, 1995

12

MR. KRIEGER: What about the deed?

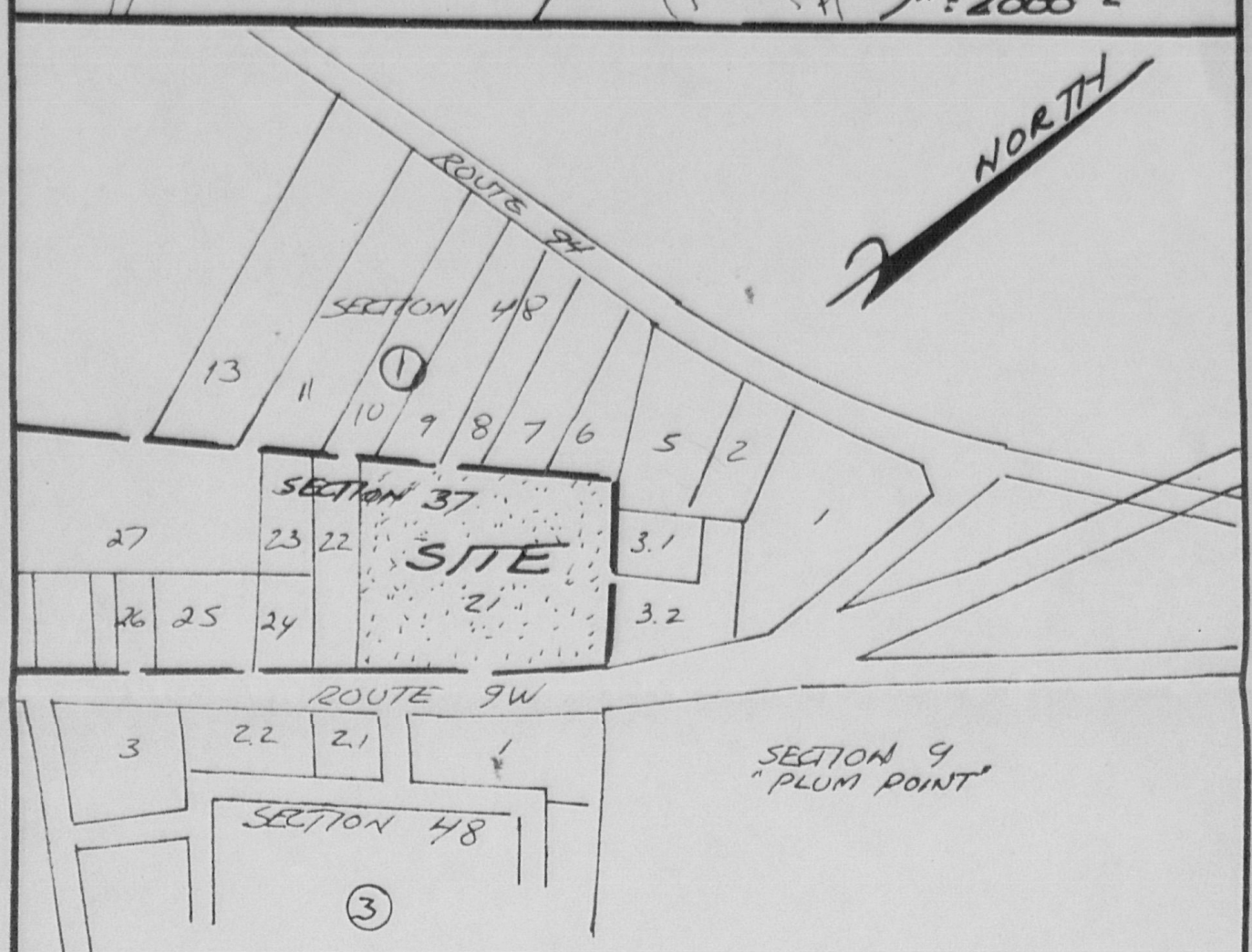
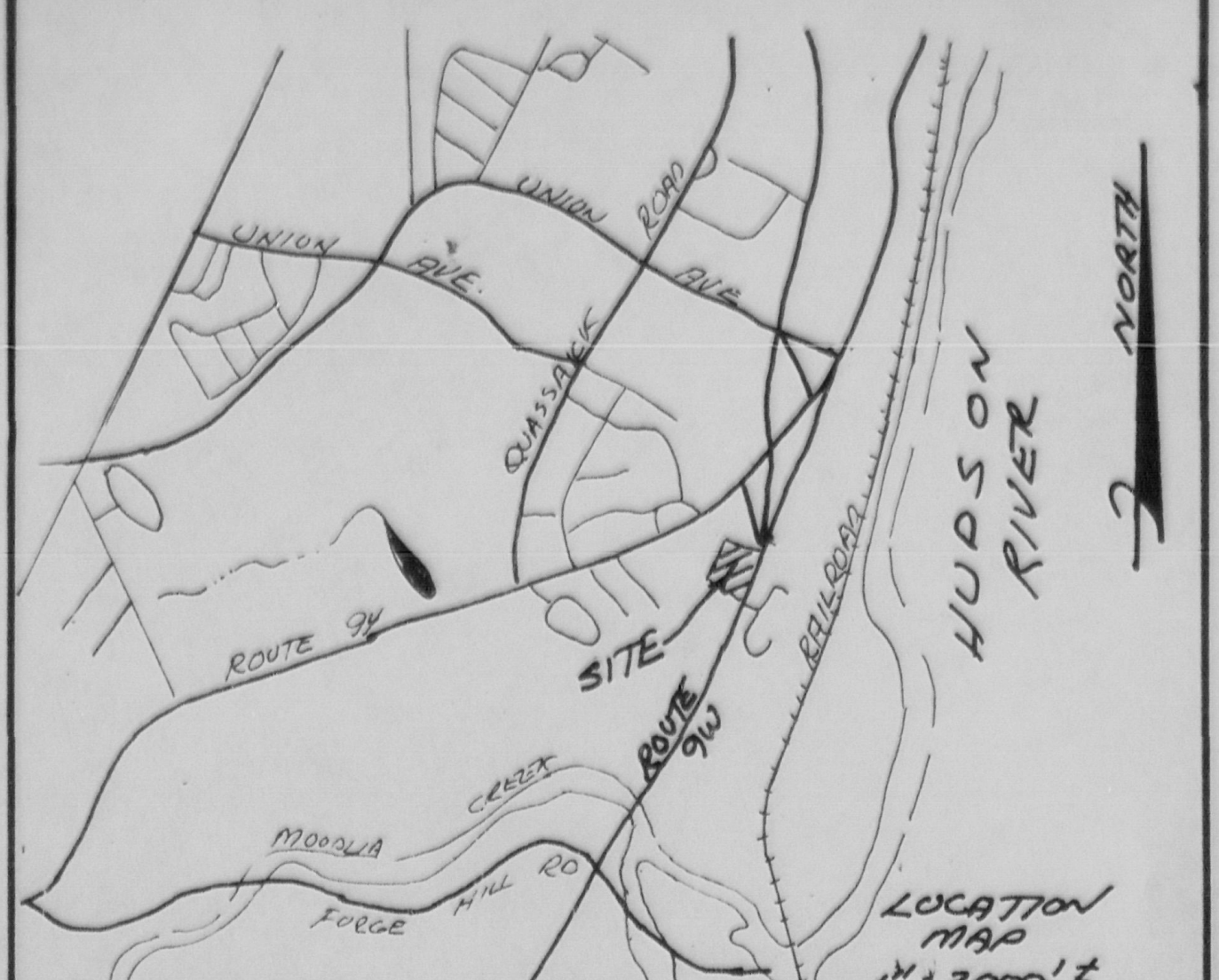
MR. LUCIA: Deeds I have.

MR. KRIEGER: Okay, let me look at the deed and I'll--

MR. LUCIA: You want to receive it in advance?

MR. KRIEGER: That night is fine and I'll reserve decision until I'm asked about the title policy.

MR. LUCIA: Thank you.



AREA MAP SCALE: 1"=100 FT.

- NOTES:
1. WATER AND SEWER FACILITIES TO BOTH DWELLINGS ON THIS PROPERTY ARE PROVIDED BY THE TOWN OF NEW WINDSOR WATER AND SEWER DEPARTMENTS.
 2. IT IS THE POLICY OF THIS STATE AND THIS COMMUNITY TO CONSERVE, PROTECT AND ENCOURAGE THE DEVELOPMENT AND IMPROVEMENT OF AGRICULTURAL LAND FOR THE PRODUCTION OF FOOD, AND OTHER PRODUCTS, AND ALSO FOR ITS NATURAL AND ECOLOGICAL VALUE. THIS NOTICE IS TO INFORM PROSPECTIVE RESIDENTS THAT THE PROPERTY THEY ARE ABOUT TO ACQUIRE LIES PARTIALLY OR WHOLLY WITHIN AN AGRICULTURAL DISTRICT OR WITHIN 500 FEET OF SUCH A DISTRICT AND THAT FARMING ACTIVITIES OCCUR WITHIN THE DISTRICT. SUCH FARMING ACTIVITIES MAY INCLUDE, BUT NOT BE LIMITED TO, ACTIVITIES THAT CAUSE NOISE, DUST OR ODOR.

BULK TABLE (CNC ZONE)		
	REQUIRED	PROVIDED
TOTAL AREA	19,000 sq. ft.	187,037 sq. ft.
LOT WIDTH	100 FT.	482 FT.
FRONT YARD	40 FT.	145 FT.
SIDE YARD	15.125 FT.	142,194 FT.
BUILDING HEIGHT	35 FT.	35 FT.
REAR YARD	15 FT.	205 FT.

LAND COVERAGE		
	REQUIRED	PROVIDED
TOTAL AREA	19,000 sq. ft.	187,037 sq. ft.
PARKING	90 SPACES	129 SPACES
BUILDING COVERAGE	N/A	12,346 sq. ft. = 6.48%
PARKING COVERAGE	N/A	70,800 sq. ft. = 38.03%
OPEN SPACE	N/A	85,791 sq. ft. = 45.49%

* BULK TABLE - (R-4 ZONE)		
	REQUIRED	PROVIDED
TOTAL AREA	15,000 sq. ft.	33,119 sq. ft.
LOT WIDTH	100 FT.	156 FT.
FRONT YARD	35 FT.	90 FT.
SIDE YARD	15/30 FT.	39/34 FT.
REAR YARD	40 FT.	32 FT.
STREET FRONTAGE	60 FT.	25 FT.
BUILDING HEIGHT	35 FT.	22 FT.
LIVABLE AREA	1000 sq. ft.	2600 sq. ft.
DEVELOPMENT COVERAGE	30%	19%

* VARIANCES REQUIRED:

- 1) USE VARIANCE
- 2) STREET FRONTAGE
- 3) REAR YARD

PROPOSED
SUBDIVISION
FOR
DORI ASSOC., INC.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N.Y.
SCALE: 1"=20 FT. AUGUST 13, 1995
CONTR. INT: 2 FOOT.

OWNER/APPLICANT:
DORI ASSOC., INC.
94 RICHARD COLONI
ROUTE 9W
NEW WINDSOR, N.Y. 13553

ENGINEER & SURVEYOR:
RICHARD G. BARGER
894 J ROUTE 52
BEACON, N.Y. 12508



I, RICHARD G. BARGER, PE & LS HEREBY CERTIFY THAT THIS SURVEY AND SUBDIVISION MAP WAS PREPARED BY ME AND INFORMATION WAS TAKEN FROM AN ACTUAL FIELD SURVEY COMPLETED BY ME ON NOVEMBER 18, 1994.
Richard G. Barger
RICHARD G. BARGER PE & LS PE & LS #037246

THE UNDERSIGNED OWNER OF THE PROPERTY HEREON, STATES THAT HE IS FAMILIAR WITH THIS MAP, ITS LEGENDS AND HEREBY CONSENTS TO ALL SAID TERMS AND CONDITIONS AS STATED HEREON AND TO THE FILING OF THIS MAP IN THE OFFICE OF THE CLERK OF THE COUNTY OF ORANGE.

[Signature]
DATE